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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1890.

No. 304.

E. O. STEVENSON, PLAINTIFF IN ERROR,

vs.

J. Q. BARBOUR.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF KENTUCKY.

FILED NOVEMBER 25, 1887.

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1 UNITED STATES OF AMERICA, *District of Kentucky*, } ss:

To J. Q. Barbour, Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be held at Washington on the first day of its next October term, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the said district of Kentucky, wherein E. O. Stevenson is plaintiff and you are defendant in error, to show cause, if any there be, why the judgment in said writ of error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Seal 6th Circuit Court, Ky. Dis., U. S. of America.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this 10th day of June, in the year of our Lord 1887, and of our Independence the 111th year.

HOWELL E. JACKSON,
Circuit Judge.

2 Came to my hand July 1st, 1887. Executed July 9th, 1887, on J. Q. Barbour by delivering to him a copy hereof at Williamstown, Grant county, Ky.

A. J. GROSS, *U. S. M.*,
By B. F. WARNOCK, *D. M.*

Marshal Fees.

1887.		
July 7.	To serv. 1 copy	2 00
	To expense in lieu of mileage	50
" 8.	Dinner at Cincinnati	1 05
" 8.	Railroad to Williamstown from Cin'ti	1 50
9.	Hotel at Williamstown	1 05
9.	Railroad back to Cin'ti, —; Carr fare & bridge toll, .25; hack fare, .25; hack returning, .25	75
		6 85

3 UNITED STATES OF AMERICA, *District of Kentucky*, } ss:

The President of the United States of America to the judge of the circuit court of the United States for the Kentucky district, Greeting:

Because in the record and proceedings and also in the rendition of the judgment of a plea which is in said circuit court, before you, between J. Q. Barbour, plaintiff and E. O. Stevenson, defendant, a manifest error hath happened, to the great damage of the said E. O. Stevenson, as by his complaint appears, and it being fit that the error, if any there hath been, should be duly

corrected and full and speedy justice done to the party aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the records and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at the city of Washington on the first day of our next October term, in the said Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the law and custom of the United States should be done.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, and the seal of said court, at Covington, in said district, this tenth day of June, A. D. 1887, and of the Independence of the United States the 111th year.

[Seal 6th Circuit Court, Ky. Dis., U. S. of America.]

JOS. C. FINNELL,
C. C. C., K. D.

Allowed by—
HOWELL E. JACKSON,
Circuit Judge.

4 Came to hand July 1st, 1887. Executed July 9th, 1887, on Jos. C. Finnell, cl'k United States circuit court, Kentucky district, at Covington, by delivering to him a copy hereof.

A. J. GROSS, *U. S. M.*,
By B. F. WARNOCK, *D. M.*

Marshal fees:
1887. To serv. 1 copy, $2.00.

5 Proceedings of the circuit court of the United States for the 6th judicial circuit for the district of Kentucky, at a regular term of said court begun and held at the Federal Court Hall, in the city of Covington, on Monday, May 9th, A. D. 1887, and of our Independence the 111th year.

Court met.

Present: Hon. Howell E. Jackson, jud-e of the United States circuit court, in the 6th judicial circuit.

J. Q. BARBOUR
vs.
E. O. STEVENSON.

Be it remembered that heretofore, to wit, on the 9th day of May, A. D. 1887, came the defendant, by his attorney, and, on his motion, the following order was entered herein, viz:

J. Q. BARBOUR
vs.
E. O. STEVENSON.

This day came the defendant, by James O'Hara, Esq., his attorney, and by leave of court filed herein a transcript of the
6 proceedings had in the above-styled case in the Grant circuit court; came also the plaintiff, by his attorneys, Messrs. Dickerson and De Jarnett, and, upon their motion, this case is placed upon the common-law docket, and is specially set for hearing Monday, May 16, 1887.

Transcript mentioned in the foregoing order was in words *in* figures as follows, viz:

Pleas before the Hon. Warren Montfort, judge of the Grant circuit court, at the court-house, in Williamstown, Grant Co., Kentucky, this the 6th day of Dec., 1886.

J. Q. BARBOUR, Plaintiff,
against
E. O. STEVENSON, Defendant, } Ord. Petition.

Be it remembered that heretofore the plaintiff filed his petition herein, which is endorsed filed Feb'y 24th, 1886, summons and copy issued, and is in words and figures as follows, to wit:

Petition.

The plaintiff, J. Q. Barbour, complains of the defendant, E.
7 O. Stevenson, and says that the said defendant, contriving and wrongfully intending to injure him and dishonor his family and deprive him of the service, assistance, and society of Hattie Barbour, the daughter of the plaintiff, did, in the county aforesaid, debauch and carnelly know the said Hattie Barbour, she being a white woman, unmarried, and only fourteen years and thirteen days old, and residing with the plaintiff, her father, whereby the said Hattie Barbour, being the daughter and servant of the plaintiff, became sick and pregnant with child, and so continued for the space of nine months, at which time, to wit, on the 10th day of July, 1885, in the county aforesaid, she was delivered of the child of which she was pregnant as aforesaid.

By means of which the said Hattie Barbour for a long time became and was unable to perform any labor, work, or business for the pl'ff, so being her father as aforesaid, and thereby plaintiff was deprived of the service and society of his said daughter and subjected to great anxiety, humiliation, and dishonor, and was in addition obliged to pay out large sums of money, to wit, fifty dollars
($50.00), in nursing and taking care of his said daughter and
8 about the delivery of said child, and these trespasses, wrongs, injuries, and damages the defendant did within one year before the commencement of this action.

Plaintiff says that he has been damaged by the said wrongful acts of the defendant in the sum of twenty thousand dollars.

Wherefore he prays judgement against the defendant for the sum of twenty thousand dollars damages and for all proper relief.

DE JARNETT & DICKERSON,
Att'ys for Plaintiff.

The sums refer-ed to in the foregoing petition does not seem to be of record in my office.

Afterward, at the May term, 1886, and on the 29th day of May, the following order was entered herein, viz:

Order.

Came defendant Stevenson, by his attorney, and filed his answer herein.

The answer referred to in the foregoing order is endorsed filed 29th May, 1886, and is in words and figures as follows:

Answer.

9 The defendant denies that he did at any time or place debauch or carnally know the plaintiff, the plaintiff's said daughter, Hattie Barbour.

He has neither knowledge nor information sufficient to form a belief thereof as — whether or not nor how long the said Hattie Barbour, by reason of her alleged pregnancy, was unable to perform labor, work, or business, nor as to whether the said plaintiff was compelled to or did expend the said sum of fifty dollars or any sum in and about nursing or taking care of the said Hattie on account of her alleged pregnancy and delivery of said child.

Defendant denies that the plaintiff has been damaged or injured by any act of his in the sum of $20,000 or in any sum. Where*of* he prays to be hence dismissed and for his costs.

J. O'HARA,
For Defendant.

E. O. Stevenson, the defendant, says he believes this statement of the foregoing answers *are* true.

E. O. STEVENSON.

Sworn to before me by E. O. Stevenson this 3d day — May, 1886.
JAMES S. WILLIS, *Clerk.*

Afterwards, at the December term, 1886, and on the 6th day of December, the following order was entered herein, to wit:

10 *Order.*

Came the defendant, by O'Hara and Bryan, his attorneys, and filed his petition, affidavit, and bond for the removal of this cause into the next United States circuit court in and for the district of

Kentucky; and thereupon, the court being sufficiently advised and having examined and approved the said bond as good and sufficient, it is ordered that this court proceed no further in said cause, and the same is removed accordingly.

To all of which the plaintiff objects and excepts at the time.

The petition refer-ed to in the foregoing order is endorsed filed 6th Dec., 1886, and is in words and figures as follows:

Petition for Removal.

To the honorable the circuit court in and for the county of Grant and State of Kentucky:

Your petitioner, E. O. Stevenson, respectfully shows that he is the defendant in the above-entitled suit, and that the same was commenced on or about the — day of ——, 1886, in said county, by the said J. Q. Barbour, plaintiff, against your petitioner, defendant; that your petitioner was at the commencement of said suit, ever since —, and still is a citizen of the State of Ohio. Your pe-
11 titioner says the said plaintiff, J. Q. Barbour, is a citizen of Kentucky, was so at the commencement of said suit, and has ever since been. Your petitioner says that there is and was at the beginning of said suit a controversy therein between the said plaintiff and your petitioner of a civil nature, of value, exclusive of cost, *excluding* the sum of five hundred dollars, the said action having been brought by the plaintiff against your petitioner, the defendant therein, for $20,000 damages for the alleged debauching by your petitioner of the said plaintiff's minor daughter, Hattie Barbour.

Your petitioner further says that said suit has not been tried, but is now pending and for trial in said court, and your petitioner desires to remove the same into the circuit court of the United States for the district of Kentucky pursuant to the act of Congress in that behalf provided, to wit, the Revised Statutes of the United States, section 639, 3 subdivision. Your petition- says he has filed the affidavit required by statute in such cases and offers herewith his bond, executed by himself as principal and J. O'Hara, of Kenton county and State of Kentucky, as his surety, in the penal sum of
12 five hundred dollars, conditions as by said act of Congress required.

Your petitioner therefor- prays that said bond may be accepted as good and sufficient, according to said act of Congress, and that the said suit may be removed into the next circuit court of the United States in and for the dist. of Kentucky pursuant to the aforesaid act of Congress in such case made and provided, and that no further proceedings may be had therein in this court, upon the grounds of prejudice against him and local influence.

Your petitioner will ever pray.

O'HARA AND BRYAN,
Att'ys for Petitioner.

The defendant and petitioner, E. O. Stevenson, says the statements of the foregoing petition are true.

E. O. STEVENSON.

Sworn to before me by E. O. Stevenson this the 6th day of December, 1886.

CLAY CONRAD, *Clerk.*

The affidavit referred to in the foregoing order is endorsed filed 6th December, 1886, and is in words and figures as follows, viz:

Affidavit.

13 I, Ed. O. Stevenson, defendant in the above-styled action, being duly sworn, do say that I am the sole defendant in the above-entitled cause; that I have reason to believe and do believe that from prejudices and local influence I will not be able to obtain justice in said court.

ED. O. STEVENSON.

Subscribed and sworn to before me by the said Ed. O. Stevenson, in my presence, this 6th day of December, 1886, at Williamstown, county and State aforesaid.

CLAY CONRAD, *Clerk.*

The bond referred to in the foregoing order is endorsed filed 6th December, 1886, and is in the words and figures as follows, viz:

Bond.

Know all men by these presents that we, Ed. O. Stevenson as principal, and J. O'Hara, of Kinton county, Kentucky, as surety, are hereby held and firmly bound unto J. Q. Barbour in the penal sum of five hundred dollars, lawful money of the United States; for the payment of which, well and hereby to be made, we bind ourselves, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the said
14 Ed. O. Stevenson shall enter and file or cause to be entered and filed in the next circuit court of the United States in and for the district of Kentucky, on the first day of its session, copies of all process, pleadings, depositions, testimony, and other proceedings in a certain suit or action now pending in the circuit court in and for Grant county, in the State of Kentucky, in which the said J. Q. Barbour is plaintiff and the said Ed. O. Stevenson is defendant, and shall do such other appropriate act- as by the act of Congress in that behalf are required to be done upon the removal of such suit from said State court, then this obligation to be void; otherwise to be in full force.

This the 6th day of December, 1886.

ED. O. STEVENSON.
J. O'HARA.

Att: CLAY CONRAD, *Clerk.*

STATE OF KENTUCKY, }
Grant Circuit Court, } *sct:*

I, Clay Conrad, clerk of said court, do certify that the foregoing 9 pages and ⅔ of a page contain a full and complete transcript of the petition and answer, orders, petition for removal, affidavit, and bond in the foregoing-styled action, as set forth in the caption, as
15 the same appears of record in my office.

Witness my hand as clerk of said court this 28th day of January, 1887.

CLAY CONRAD, *Clerk.*

And on a day following, to wit, on the 16th day of May, the following order was entered herein, viz:

J. Q. BARBOUR }
vs.
E. O. STEVENSON. }

This cause coming on to be heard, came the plaintiff, having as his attorneys Messrs. De Jarnette & Dickerson, Oneal and Gray; came also the defendant, having as his attorneys W. W. Cleary and J. W. Bryan; and the parties, plaintiff and defendant, having announced ready for trial, came the following jury, to wit, Chas. Asman, J. W. Armstrong, G. W. Hill, Wm. Shaw, Robert Hamilton, R. P. Rouse, J. A. Deppe, N. H. Grant, Wm. Huber, George Watcher, J. P. Castner, and John S. Wyatt, who were elected, tried, and sworn well and truly — try the issue joined and a true verdict rendered. The plaintiff and defendant having respectively introduced to the court and jury their evidence herein and the hour for adjournment having arrived, the jury were instructed by the court
16 and the further hearing of this case is continued until tomorrow morning at 9 a. m.

And on a day following, to wit, on the 17th day of May, the following order was entered herein, viz:

J. Q. BARBOUR }
vs.
E. O. STEVENSON. }

This day again came the plaintiff and defendant in person and by their respective attorneys, and the attorneys for plaintiff and defendant having argued the case, and the jury, being instructed by the court upon the law of the case, returned to their room to consider of the matter in controversy before them. Presently coming into court they returned the following verdict:

"We, the jury, find for the plaintiff and assess damages in the sum of $15,000.

CHAS. ASMAN, *Foreman.*

It is now therefore ordered and adjudged that the plaintiff, J. Q. Barbour, have and receive of the defendant, E. O. Stevenson, the sum of fifteen thousand dollars and his costs herein expended, to be taxed.

17 And on a day following, to wit, on the 18th day of May, A. D. 1887, the following order was entered herein, viz:

J. Q. BARBOUR
vs.
E. O. STEVENSON.

This day came the defendant, by his attorneys, Messrs. O'Hara and Bryan and W. W. Cleary, and filed his certain written grounds and moved the court for a new trial herein. Said motion and grounds are as follows: The defendant, E. O. Stevenson, moved the court to set aside the verdict and judgment herein and grant him a new trial, because, 1st, the verdict and judgment is not supported by sufficient evidence; 2nd, is contrary to the law of the case; 3rd, the court erred in the admission of testimony in the part of plaintiff and the rejection of testimony offered by the defendant; 4th, the damages awarded by the jury are excessive, given under *under* the evidence of influence or passion; 5th, the court improperly charged the jury as to *this* law of the case to the prejudice of the defendant; 6th, the court improperly charged the jury as to the effect to be given by them in testimony in this case; 7th, the court im-
18 properly charged the jury as to inferences to be drawn by them from the testimony and presumptions from omissions to offer testimony.

And on the same day, to wit, on the 18th day of May, A. D. 1887, the following order was entered therein, viz:

J. Q. BARBOUR
vs.
E. O. STEVENSON.

This cause coming on to be heard upon the motion of defendant for a new trial herein, came the parties, plaintiff and defendant, and by their respective counsel, and made argument to the court upon said motion; whereupon, the court now being fully advised, it is ordered that said motion be, and the same is, overruled; to which ruling of the court defendant, by his counsel, *accepts*.

And on a day following, to wit, on the 19th day of May, A. D. 1887, the following orders were entered herein, viz:

J. Q. BARBOUR
vs.
E. O. STEVENSON.

It is now ordered by the court that at the bottom of the
19 judgment entered herein on Tuesday, May 17th, 1887, the

second day of the present term of this court, there be noted that a *capias ad satisfaciendum* may issue.

J. Q. BARBOUR
vs.
E. O. STEVENSON.

This day came Messrs. De Jarnett and Dickerson, attorneys for plaintiff, and on their motion it is ordered that their lien for attorneys' fee, as attorneys for the plaintiff, against the judgment herein be, and the same is, noted of record.

J. Q. BARBOUR
vs.
E. O. STEVENSON.

This day came the defendant, by his attorneys, Messrs. O'Hara and Bryan, and on their motion they are allowed until June 3d, 1887, in which to prepare and file bill of exceptions herein.

And on a day following, to wit, on the 1st day of June, A. D. 1887, the following contract was filed herein, viz:

To whom it may concern:

I have this day employed De Jarnett & Dickerson to institute
20 and prosecute in the Grant circuit court, and in such other courts as the same may be taken to, a suit for damages against E. O. Stevenson for the seduction and debauchment of my daughter, Hattie Barbour; for and in consideration of their services as attorneys in said suit, agree to pay them a sum equal to one-third of whatever judgment I may recover against said Stevenson in said action; and should said action be compromised in any way before its final adjudication without the consent and advice of said attorneys, then I am to pay them for their said service five hundred dollars and an amount equal to one-third of what I may or shall receive or obtain by such compromise.

Feb. 24th, 1886.

J. Q. BARBOUR.

Att.: D. B. PRICE.

And on a day following, to wit, on the 3rd day of June, A. D. 1887, the following order was entered herein:

J. Q. BARBOUR
vs.
E. O. STEVENSON.

This day came the defendant, E. O. Stevenson, by James
21 O'Hara, Esq., his attorney, and in open court tendered his bill of evidence and exceptions herein. Said bill of evidence and exceptions are endorsed "lodged for record;" and the court, not being fully advised, takes time.

And on a day following, to wit, on the 20th day of June, A. D. 1887, the following order was entered herein:

J. Q. BARBOUR
vs.
E. O. STEVENSON.

The court now being fully advised, it is ordered that the bill of evidence and exceptions herein, heretofore lodged in the clerk's office, be and same are now signed, sealed, and made part of the record hereof.

The bill of evidence and exceptions mentioned in the foregoing order was and is in words and figures as follows:

Bill of Evidence.

J. Q. BARBOUR, being duly sworn, testified on his own behalf as follows:

Examined by Mr. O'NEAL:

Q. Where do you live?
A. Williamstown, Grant county, Ky.
Q. How long have you resided in that town and county?
22 A. Two years.
Q. When did you go to the county of Grant?
A. On the 7th of October, 1884.
Q. On the 7th of October, 1884?
A. Yes, sir.
Q. Where did you live previous to that time?
A. In Covington, Ky.
Q. How long had you resided in Covington?
A. Three years.
Q. How much of a family did you have at the time you went to Grant county?
A. Two daughters and a wife.
Q. What was the age of your daughters?
A. The youngest one was fourteen years of age on the 29th of September, 1884.
Q. That is your youngest daughter?
A. Yes, sir.
Q. What was the age of your oldest daughter?
A. She was two years older than that.
Q. When were you and where were you married?
A. At Maysville, Ky.
Q. Who did you marry?
A. Miss Rickets.
Q. Did she reside in Maysville?
A. Yes, sir.
Q. State to the jury how you happened to move from Cov-
23 ington to Grant county, Ky., and whether at your own option or at the instance of any one else?
A. In 1884 I went there to photograph his camp ground. It was

two or three days, at least, of the camp meeting; I think on the 17th of August. I do not remember the dates; or, rather, in July—*it* 17th of July, I think it was. I don't remember the dates.

Q. At whose instance did you go?

A. At Mr. Stevenson's.

Q. What had been your business?

A. Photographing.

Q. Now, when did the first solicitation take place for you to go to do this work?

A. The first time was over at Mr. Hoyer's, on Madison street.

Q. Where did you first meet Mr. Stevenson?

A. On the camp ground.

Q. Then you went in consequence of having been informed that he wanted you for that purpose?

A. Yes, sir.

Q. What was your agreement about going to work for him?

A. There was no positive arrangement made about price.

Q. What did he want?

A. Wanted views of the ground.

Q. Did he designate the ground?

24 A. Yes, sir; the camp ground.

Q. Did you complete that work?

A. Yes, sir.

Q. Now, state what arrangement was made at any other time.

A. I don't remember the date, but some time in September he came to Covington and engaged me to go back there.

Q. Now, I want to ask you if anything was said? Did he see your family?

A. Yes, sir.

Q. Did he see your daughter?

A. Yes, sir.

Q. Now, was anything said to you by Mr. Stevenson about returning out there and taking charge of that business until he came to Cov.?

A. He had spoken about it before that.

Q. Had he spoke about your moving your family?

A. I told him I could not decide anything about that. He asked how I would like to move out.

Q. What was said about it?

A. He came here on Saturday——

Q. Did you take your wife then, when you first went there?

A. Not when I first went there. They were there before I completed the work.

25 Q. How long after you returned to Covington before he came to your house?

A. Then I went back again to see a young man about getting him to go with me to a couple of fairs, and I happened to meet Mr. Stevenson on the train and he wanted me to go back. I told him I was going to get Mr. ——, of Covington, to work for me; it happened that the work was not sufficient here. I went out there with my photographing apparatus at that time and I met him on the

train and he asked me to go home with him. When I got there this young man was not there. I went there and staid there about a week; then I came back to Cov. Then he came here, going on to Indiana, to a piece of land that he had, on some business, and he came to my house on Saturday evening and he staid there awhile, and we walked over the river and he engaged me to go to this place and stay.

Q. Did he state anything about moving then?

A. Yes, sir.

Q. And taking charge of the house?

A. Yes, sir.

Q. Was the business designated?

A. Yes, sir.

26 Q. Now, state what proposition he agreed to.

A. He agreed to give me twenty-five dollars a month for photographing, and after doing the work for him and his mother in the private house at that time, until after the kitchen and dining-room was built, and he was building a kitchen and dining-room when we went out there; he was to give my wife two dollars a week

Q. After you got out there was there any other inducement?

A. He was to pay my wife two dollars a week to take care of the house.

Q. Was there any work promised you besides photographing?

A. Yes, sir.

Q. What else was promised?

A. He was going to build a large furniture factory and promised me the job of carving the furniture.

Q. Was anything said about what pay you would have for that?

A. If not working enough in photographing he was to pay me fifteen dollars until I got a further advance.

Q. Now, when did you move out there?

A. The 7th of October, 1884.

27 Q. What time of the day did you get there, do you remember?

A. On the evening train.

Q. Did you move your furniture there?

A. Not that evening.

Q. Did you soon after?

A. Yes, sir.

Q. And took charge of the house?

A. Yes, sir.

Q. Who was there occupying the house beside- your family?

A. Mr. Stevenson.

Q. How many rooms in the house?

A. Two rooms that he occupied, and then two rooms back, not quite finished up.

Q. How many rooms did you occupy with your family?

A. Well, after we were there we had two rooms of the building and two to be finished, then a spare room between that and his office

Q. Was there any rooms or buildings beside that?

A. There was a cabin on the east side.

Q. On the east side?
A. Yes, sir.
Q. What was that occupied for?
A. Well, he had some lumber in it at that time.
Q. What else did he use it for?
28 A. We used it for a printing-room—printing photographs.
Q. Where was the cooking done?
A. That was done on the east side, across a little ravine, across the creek; it was called the boarding-house.
Q. That is where they cooked and had the dining-room all together?
A. Yes, sir.
Q. One large room, was it?
A. Yes, sir.
Q. Where the hands took their meals?
A. Yes, sir.
Q. Now, how far was this from the main building?
A. Well, I think about fifty yards.
Q. Well, now, in going to that building from the house, you went westward, did you?
A. Yes, sir.
Q. Now, you stated you had to pass over a ravine?
A. Yes, sir.
Q. How did you get over that?
A. There was a bridge across it.
Q. Do you remember what day of the week the 7th of October was?
A. It was on Tuesday.
Q. Did you remain there all week?
A. Yes, sir.
Q. Was Mr. Stevenson there all the time?
A. No, sir.
29 Q. What portion of the time was he away?
A. He did not get there until the last of the week—either Friday or Saturday night.
Q. Either Friday or Saturday night?
A. Yes, sir.
Q. Was he there on Sunday?
A. Yes, sir.
Q. Was you there on Sunday?
A. I was there a portion of the time.
Q. What portion of the time was you there?
A. I can't tell; he asked me to go to the camp ground and get the view—the outfit.
Q. What time in the morning did he ask you that?
A. Some time in the afternoon.
Q. Did he state anything to you about your daughter coming there and doing some writing?
A. He did not.

Mr. CLEARY: That is objected to as leading.

Q. Did he say anything to you about getting your daughter to do any work?

A. I don't remember anything of the kind.

Q. Well, where were the servants on that day—some of them?

30 A. The servants?

Q. Yes, sir.

A. The hands?

Q. Those that did the cooking.

A. Well, it seems to me that the day before the woman left.

Q. Who done the cooking on that day—on Sunday?

A. Well, my wife.

Q. Anybody assist your wife?

A. My daughters.

Q. Where did they have to do work?

A. Over here at the boarding-house, across the bridge; the kitchen was new; had not been built yet.

Q. I will ask you if you saw Mr. Stevenson any more that day, after you returned?

A. Yes, sir.

Q. Where was it?

A. I remember of seeing him, I think, about the place or on the front porch. We did not make the views, from some cause. I don't remember why it was.

Q. How long did he remain after that?

A. I cannot tell.

Q. I will ask you where your daughter had been during the time you were living in Covington?

A. Where had she been?

Q. Yes, sir.

31 A. Been going to school.

Q. Where?

A. At the Seventh-Street Catholic school.

Q. What portion of the *school* had she been in the school?

A. She had been there all the time except the first few weeks, when she went to the Scott-Street school.

Q. Well, she had no opportunity during this time to visit around. What were her habits and conduct during this time?

Mr. CLEARY: We object to that question.

The COURT: The objection is sustained.

Q. Can you state to the jury how long Mr. Stevenson remained, after this conversation down there, at the place before he went away?

A. I don't know; I think the latter part of that week or the latter part of the next week he went away.

Q. How long was he gone?

A. I could not say, because he was away every few days, going to different places.

Q. You can't recollect when he went away or when he came back?

A. No, sir.
Q. You know that he went out on trips?
A. Yes, sir.
Q. Did you have any conversation?
32 A. I know that he was about, visiting or going off on trips, and I know that he came there Friday or Saturday night.
Q. How long did he remain there then?
A. Well, until the latter part of that week, I think, some time, or it may have been the next week that he went away.
Q. Now, how long after that did you discover the position of your daughter?
A. I think it was the first Tuesday in February following.
Q. The first Tuesday in February following?
A. Yes, sir.
Q. Where was Mr. Stevenson then?
A. He was away then; I could not tell where he was.
Q. Did he come back after that?
A. Yes; he came back to the camp ground.
Q. Did he come to the house?
A. No, sir.
Q. Did he come to the house after it was discovered she was in that condition?
A. No, sir; we were away.
Q. Did you have any communication with him as to what had happened?
33 A. No, sir; not at all before the trial came up.
Q. Do you know whether he knew that you had discovered the fact previous to the time of his trial?
A. Yes; on Sunday, I think it was.
Q. How do you know?
A. Through some of his friends, I guess.
Q. Was he back to that house from the time you discovered the condition of your daughter until his arrest?
A. No, sir.
Q. Do you know where he was?
A. No, sir.
Q. Do you know of his passing by the station on the train after this discovery?
A. Yes, sir; on Tuesday, when I found this out, he had sent me to make a view of the trains passing, and I went to take a view of the train to show where people get off to go to this camp ground; he wanted to take it to New Orleans to the exposition, and I went up on Tuesday morning to make a view of the train, and while I was there I purchased a pair of corsets and when I went home to dinner I gave them to my wife and she took them in the house to have them tried on, and then when she went to try the
34 corsets on she made the discovery. At that time I had passed the house and gone to the printing-room, and she came in and told me, or, I think, she called to the door and said I want to see you.

Q. Now, was the defendant to have met you anywhere that day?
A. No, sir.
Q. Well, did you see him any more after that?
A. Yes; on the next Saturday evening I went to the station and watched for him, thinking maybe he would come home, and he was going north on the evening train, him and his mother, towards Cincinnati. I noticed him just before the train started off. When the train was very near ready to go off, Bob Wynn saw him; then as the train moved off stepped to the door and tell a young man, Sheehee, to be there next week, at the station.
Q. Do you know where he went?
A. He was going home, is what the young man told me.

Mr. CLEARY: We object to that as hearsay.

Q. I will ask you if you had any arrangement by which he
35 was to see you in the interim, from *from* the time that he went away until you saw him on the train?
A. If I had any arrangements?
Q. Yes, sir; by which he was to see you. Were you to do some work?
A. No, sir.
Q. Very well. I know show you some plans of the ground.
A. Yes, sir. This is the little building in which is his office. This is his office and there the residence of the west side of the building (indicating on plat).
Q. Does that door open into that room?
A. The door opens into the room—that is, where he went.
Q. What portion of the room does that occupy (indicating).
A. Well, in that portion is the office there, and then there is a store-room there.
Q. What part of the house did you occupy?
A. Well, this part back here (indicating on plat).
Q. I will ask you to state to the jury whether or not your daughter was delivered of a child. If so, where and when?
A. I was living in Corinth at that time.
Q. When was it?
36 A. That was on the 10th day of July, in the evening—at night.
Q. What year?
A. In 1885.
Q. Was it a girl or a boy, and how long did it live?
A. It was a girl and lived two weeks.
Q. What length of time was she sick?
A. Nearly four weeks.
Q. What amount of nursing and attention, if any?
A. Well, it was about that long before she got out. She was able to set up, but not get out.
Q. What amount of nursing did she require?
A. Did we have anybody?
Q. No. What attention did you have to give her; did you have a family physician?

A. Yes, sir.
Q. Well, state all about that. What doctor did you have?
A. Well, Dr. Moore, then; then we had a black woman.
Q. Then about your own family?
A. Well, we attended her—her mother did.
Q. About what length of time?
A. Well, about four weeks.
Q. Well, now, what amount of doctor bill did you have to pay?
A. I was required to pay for waiting on her ten dollars.
37 Q. Anything else after that?
A. Yes, sir.
Q. Anything in addition to that?
A. I do not remember what it was now; had to wait upon the child; the doctor waited upon the child.
Q. Did you have to pay anything for medicine?
A. The doctor furnished his own medicine.

Cross-examination by Mr. CLEARY:

Q. You say you made arrangement with Mr. Stevenson to go to his place to take some photographic views?
A. Yes, sir.
Q. That was made in Covington here—the final arrangement?
A. Yes, sir.
Q. You had been out there the summer before—out at the camp ground?
A. Yes, sir.
Q. You had your daughter there?
A. Yes, sir.
Q. Your wife and family?
A. Not all of it.
Q. Just your daughter and wife?
A. Yes, sir.
Q. What was you doing there?
A. Photographing the grounds.
Q. That was on your own hook?
38 A. On my own hook?
Q. Were you employed there?
A. Under his charge.
Q. What sort of work were you doing?
A. Photographing.
Q. Were you employed by Mr. Stevenson?
A. Yes, sir.
Q. Photographing what?
A. Fixing up the apparatus in his room—fixing up his photograph room, the pictures, and done some work.
Q. Making pictures of what?
A. Of the buildings and the ground.
Q. You were doing that for yourself?
A. Him and me, too.
Q. Did you divide with him?

Q. Now, was the defendant to have met you anywhere that day?
A. No, sir.
Q. Well, did you see him any more after that?
A. Yes; on the next Saturday evening I went to the station and watched for him, thinking maybe he would come home, and he was going north on the evening train, him and his mother, towards Cincinnati. I noticed him just before the train started off. When the train was very near ready to go off, Bob Wynn saw him; then as the train moved off stepped to the door and tell a young man, Sheehee, to be there next week, at the station.
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Q. What amount of nursing did she require?
A. Did we have anybody?
Q. No. What attention did you have to give her; did you have a family physician?

A. Yes, sir.
Q. Well, state all about that. What doctor did you have?
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Q. Then about your own family?
A. Well, we attended her—her mother did.
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A. Yes, sir.
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Q. You had your daughter there?
A. Yes, sir.
Q. Your wife and family?
A. Not all of it.
Q. Just your daughter and wife?
A. Yes, sir.
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Q. Were you employed by Mr. Stevenson?
A. Yes, sir.
Q. Photographing what?
A. Fixing up the apparatus in his room—fixing up his photograph room, the pictures, and done some work.
Q. Making pictures of what?
A. Of the buildings and the ground.
Q. You were doing that for yourself?
A. Him and me, too.
Q. Did you divide with him?

A. No, sir; he asked me out that time and wanted to know what amount we use to get, and I told him one-half.

Q. Now, you say you went out there in pursuance of an arrangement on the 7th of October, 1884.

A. Yes, sir.

Q. What time of the week was that?

A. That I moved out?

Q. Yes, sir.

A. It was on Tuesday.

Q. You went out on the train, did you?

A. Yes, sir.

Q. How far was this place from Corinth?

A. About two miles and a half.

39 Q. How did you get out that day?

A. Did not go out.

Q. Was Mr. Stevenson at home?

A. No, sir.

Q. When did you see Mr. Stevenson?

A. On the Friday or Saturday evening following.

Q. What time in the day did you see him?

A. It was after night.

Q. Had he been off and come home?

A. Yes, sir.

Q. Did you have any arrangements about the terms you were to stay there?

A. No, sir.

Q. That had all been arranged in Covington?

A. Yes, sir.

Q. You took possession of this house you have described on the plat?

A. Yes, sir.

Q. When did you see him next after that night?

A. After—I seen him the next day.

Q. What time next day?

A. If that was on Saturday, if I remember right, I seen him Sunday morning.

Q. You are not certain whether he came there on Saturday night or Friday night?

A. No, sir; I think it was Saturday.

40 Q. What time did you see him next morning?

A. Well, probably at breakfast; I remember meeting him.

Q. No; I want to get at this: You say that you saw him next morning—if that was Saturday night and you think it was?

A. Yes, sir.

Q. Now, what were the circumstances under which you saw him the next morning?

A. Well, if I remember, he was sitting on the front porch.

Q. Who was sitting out there?

A. Him and I both.

Q. What front porch was that?

A. In front of his house.

Q. Which house?
A. His office.
Q. His office?
A. Yes, sir.
Q. Did you have breakfast that morning?
A. Yes; I think so.
Q. Who prepared the breakfast?
A. I don't know about that.
Q. Did your wife?
A. I could not remember about that?
Q. Who was present at the breakfast?
A. I could not say.
Q. Was Mr. Stevenson there?
A. I could not say. I think he was.
41 Q. How many hands did he have?
A. Well, sometimes more and sometimes less. I do not remember all.
Q. Well, I do not care about sometimes; I want that morning.
A. I could not tell you.
Q. How many hands were employed at that time?
A. There was about five or six.
Q. Where were they?
A. I could not tell you.
Q. Don't you know that they were about the place?
A. There was two or three black men around.
Q. Don't you know that there were white men around there?
A. Yes, one white man by the name of Sheehee; I think another young man by the name of ——. There were several there at different times.
Q. Did they take breakfast with you?
A. He did.
Q. Well, the hands?
A. Mr. Sheehee did; he was one.
Q. Well, any one else?
A. I don't remember now.
Q. What is it that calls to your mind the fact that Sheehee took breakfast?
A. Because he was there all the time.
Q. Well, Stevenson came there, but you say you can't recollect whether he took breakfast?
42 A. Well he might have been at the house and didn't eat breakfast with the others. He done that sometimes, because sometimes he didn't get up.
Q. Well, I am talking about this Sunday morning that it is alleged this thing occurred. I want to know what you know about the matter on that Sunday morning.
A. Well, I recollect of him being about there.
Q. Well, you recollect of sitting up the porch?
A. Yes, sir.
Q. Was that before or after breakfast?
A. After breakfast.

Q. How long after breakfast?

A. I could not say; some time in the forenoon, because he asked me if I would go to the camp ground that morning.

Q. Did you go to the camp ground?

A. I went and got the photographic instruments.

Q. You went to the camp ground?

A. Yes, sir.

Q. How long were you there?

A. I don't remember that.

Q. Did Mr. Stevenson go with you?

A. No, sir.

Q. Did you come back home to dinner that day?

A. Yes, sir.

43 Q. What time did you have dinner?

A. It was a little late, if I remember.

Q. Who was at dinner?

A. It rather seems to me I got home a little late. I am not positive about it.

Q. Who was at dinner that day?

A. I could not tell about that.

Q. Well, I want your recollection if you have any; was your daughter at dinner?

A. I don't remember that. I think she was.

Q. Was Mr. Stevenson at dinner?

A. Yes; I think so.

Q. Was Sheehee at dinner?

A. I could not say.

Q. Any other hands there?

A. There was one there or three or four there.

Q. Was your wife at dinner?

A. Yes; I think so. I don't think she had been away.

Q. You were not there, as I think you said, when the dinner commenced; you got in a little late?

A. I think it was just as they were eating. It seems to me I was a little late coming from the camp ground with these instruments, if that was Sunday, and I think that it was Sunday.

Q. Well, now, I will ask you to think the matter over and

44 say whether you was there before they sat down to dinner or not?

A. I could not say positively.

Q. Well, what do you think; what is your recollection?

A. That they were eating as I came in.

Q. Who prepared that dinner, do you know?

A. I don't know. I think my wife.

Q. Anything unusual occurring at the dinner table?

A. No, sir; not that I know of.

Q. Where did you go that evening?

A. I was about the place there.

Q. Was Mr. Stevenson about the place?

A. I think so. He was there that evening.

Q. Did you see him that evening?

A. He was there at supper.
Q. Did he have any one employed in his office at that time?
A. In his office?
Q. Yes, sir.
A. I don't know.
Q. Do you recollect whether you were in his office during the day?
A. I don't think that he was there.
Q. Did you remain about there?
A. Yes, sir.
Q. How many days did he remain there?
A. I think he remained there until the last of the week. I
45 know it was a few days afterwards.
Q. I ask you the direct question, did he not stay there until the Friday or Saturday after?
A. I could not say whether the Friday or Saturday or the first of the next week; he was there for a few days afterwards.
Q. Then he did stay there until the last of the week?
A. Yes; and he went off then.
Q. I want your recollection whether he went off the latter part of the week or the first of the week afterwards?
A. Well, it was a few days afterwards; I don't recollect just what day.
Q. Didn't you say when I first asked you the question that he went away on Friday or Saturday?
A. Well, I think the latter part of the week or the first of the next week.
Q. Now, how long was he gone during that time?
A. I could not say.
Q. Well, during that week that he staid at home the six or eight days did you see him every day?
A. I saw him when he was about there.
Q. Did he take dinner and breakfast and supper with you?
46 A. He took supper evenings, that I remember that.
Q. Well, I am talking about the week.
A. Well, I remember that evening because he invited one of the hand over, and he asked me to go over with this hand that went away.
Q. Went from where?
A. Went over from supper—from near the garden fence. There was a man that worked for him by the name of Hughes.
Q. What Hughes was that?
A. Gideon Hughes.
Q. You say that he went off seven or eight days after?
A. Yes, sir.
Q. How long did he stay away then?
A. I could not tell you; I think only a few days.
Q. You and him had no trouble of any sort?
A. No, sir.
Q. Did you keep upon his — until you discovered your daughter was in the family way?

A. Yes, sir.
Q. And had no trouble?
A. No, sir.
Q. Who discovered her condition?
A. My wife.
Q. Where is your wife?
A. She is here.
47 Q. She told you about it?
A. Yes, sir.
Q. When was that?
A. That was on Tuesday, I think, the 2d day of February. It was the morning I went to make that view.
Q. The morning you went up where?
A. Over to Corinth.
Q. You went from the camp ground to Corinth to make a view?
A. Yes, sir.
Q. Was Mr. Stevens there at the time?
A. No, sir; he was not.
Q. What did you do then?
A. I made a view of the train.
Q. How long after that was it that your wife communicated to you this fact?
A. When I went back from Corinth.
Q. Then after your wife communicated to you what did you do?
A. Well, I went back to town—to Corinth.
Q. Who did you see in Corinth?
A. I do not remember in particular.
Q. Did you get the communication from your wife before you went to Corinth?
A. Before I went to Corinth in the morning?
Q. Yes, sir.
A. No, sir; after I had been there and returned.
48 Q. Now, I want to know if you communicated to anybody.
A. No, sir.
Q. Did you talk to anybody?
A. Well, I didn't know anybody there in Corinth.
Q. No; I mean at the camp ground.
A. Yes, sir.
Q. Who did you tell?
A. Well, I don't rem'ber. I believe I told his boss.
Q. Told what?
A. Told Stevenson's boss—a negro.
Q. What is his name?
A. Guy.
Q. What did you tell him?
A. I told him what had happened.
Q. Anything said about Mr. Stevenson to him?
A. Yes, sir.
Q. Anything said about Mr. Stevenson?
A. Yes, sir.

Q. Told him that he was suspected?
A. Yes, sir.
Q. Did you leave Stevenson's place?
A. I went to Cincinnati, to Mr. O'Neal.
Q. Was that that morning?
A. I think the next morning.
Q. After you had seen him did you go back?
A. Yes; I went back to my family.
Q. Where were your family while you were gone?
A. There, at Stevenson's place.
49 Q. Did you remove them from there?
A. We staid there until the following week some time.
Q. How did you happen to leave Stevenson's place—well, didn't Stevenson drive you away from there?

Mr. O'NEAL: I object to the question.
The COURT: I will permit it.

Q. Didn't Stevenson order you away from there?
A. He gave me notice to move away.
Q. Was that before or after you had sworn out a warrant charging Mr. Stevenson with a rape in this case?
A. It was just before; but that was on Monday, I think.
Q. Did you leave when Mr. Stevenson gave you notice to?
A. I could not move right then. I was attending court, and while we was there he stepped across through the hills, when I had left the house locked up, and broke into the house and got the things up in a wagon and moved them himself up to town.
Q. You were attending court prosecuting him for the rape?
A. Yes, sir.
Q. He had given you notice to quit?
A. Yes, sir.
Q. You staid there to prosecute him and he came and took
50 your things and hauled them to Corinth?
A. Yes, sir.
Q. Did you see Mr. Stevenson after your wife had made this communication?
A. I saw him on Saturday evening.
Q. That is the only time?
A. That is the only time.
Q. Did you have any talk with him?
A. After what?
Q. I want to know if you saw him again?
A. I saw him on Saturday evening.
Q. Did you see him more than once?
A. I saw him more than once.
Q. Did you have any talk with him?
A. He came up in the place where I was working, making some pictures; we had fixed up a place to make negatives.
Q. You misunderstand me or I do you. After your wife told you that your daughter was in the family way did you see Stevenson? When did you see him first?

A. I saw him on the train going north.
Q. Did you have any talk with him?
A. No, sir.
Q. When did you see him, that you had any talk with him?
A. I think it was the following Monday.
51 Q. At your place?
A. Yes, sir.
Q. Did you have any talk with him about this matter?
A. Yes, sir.
Q. Did you charge him with it then?
A. Yes, sir.
Q. What did he say?
A. I disremember what he said.
Q. Did he not deny it?
A. Yes, sir.

Redirect examination:

—. The writ had been issued then?
A. I don't remember about that.
Q. Did he ever give you any written notice at all?
A. No, sir.
Q. What kind of notice did he give?
A. His mother and him told me to move away.
Q. When did she tell you this, after you were informed of this trouble or before?
A. Afterwards, I guess.
Q. Just state how your things were taken from the house—whether you had any knowledge.
A. They were taken that week—the same week we had the trial, which lasted two or three days, and we were stopping at the hotel; it was very severe, cold weather.
Q. What time in the year, what month?
52 A. In February.
Q. Can you state to the jury how cold it was in that February?
A. I could not tell you how cold it was. I know we walked up from the camp ground and the weather was so cold my wife got one of her ears froze.
Q. State how the things were taken out.
A. Well, we were at the hotel and they saw us and slipped down, went across through the fields and went home and — a team and moved the things to Corinth.
Q. How far was that from where they were?
A. Two and a half miles.
Q. When you went home how did you find the things?
A. I went back that evening to stay all night. I went back to take care of things, and when I got back everything was gone.
Q. I want to ask you if you had any notice to leave there, verbal or written or otherwise, until after you had discovered that your daughter was in the condition you have stated?
A. No, sir.

Q. Not until after you had charged him with it?
A. No, sir.

53 An- also HATTIE M. BARBOUR, being duly sworn, testified on behalf of the plaintiff as follows:

Examined by Mr. O. NEAL as follows:

Q. State your full name.
A. Hattie M. Barbour.
Q. Where do you reside?
A. At Williamstown, Grant county, Ky.
Q. How long have you resided there?
A. Ever since October 7th.
Q. What year?
A. In what county, do you mean, or in what year?
Q. Yes; what year?
A. Since 1884.
Q. Where did you move from to Grant Co.?
A. From Covington.
Q. How long had you lived in Covington previous to that time?

The COURT: There is no controversy about that.

Q. What is your age at present?
A. I will be seventeen the 29th of September.
Q. Do you remember when your father moved to Mr. Stevenson's place?
A. It was about October 7th.
Q. Do you remember what day?
A. I could not say for certain; I think Tuesday.
Q. Well, had you been there previous to the time of moving?
A. Yes, sir.

54 Q. How long were you there?
A. It was about four weeks.

Q. Where did you stay when you were there the first time?
A. At Mr. Stevenson's house.
Q. Who was with you?
A. Ma and pa.
Q. Who else was there; your sister?
A. No, sir; she was visiting at that time.
Q. Do you remember what month that was in?
A. No, sir; I do not.
Q. You do not remember what month it was in?
A. No, sir.
Q. Did you come home after that to Covington?
A. Yes, sir.
Q. Did Mr. Stevenson ever come to your place after that?
A. Yes, sir.
Q. How long after that was it?
A. About a week.
Q. About a week?
A. Yes, sir.
Q. Where did you reside at the time?

A. At Covington.
Q. Did he come to your house?
A. Yes, sir.
Q. Did you hear any talk about going back there?
A. Yes, sir.
Q. Was anything said to you about when you were going
55 back there?
A. I don't remember.
Q. Who was the conversation with?
A. With pa and ma.
Q. At what place—at your house?
A. Yes, sir.
Q. How long was it after that until you did go back?
A. I don't remember exactly; I think about two weeks.
Q. Do you know where Mr. Stevenson was when you went out there?
A. No, sir; I don't.
Q. Did you see him when you got there?
A. No, sir.
Q. How long was it before you saw him?
A. I do not recollect. I think we went there Tuesday, and he came home Friday night.
Q. Do you know what time he got there?
A. Between eight and nine o'clock.
Q. Did you see him that night?
A. Yes, sir.
Q. Did you see him the next day?
A. The next morning.
Q. Did he remain there that day or go away?
A. He went to town, I think, and came back that night.
Q. Where did he stay Saturday night?
56 A. Staid at the house.
Q. Did you all occupy the same house?
A. Yes, sir.
Q. Who done the cooking on Saturday?
A. I don't know; I think mam-a did.
Q. Who did the cooking on Sunday and Monday?
A. Mam-a and Minnie.
Q. Who is Minnie?
A. My sister.
Q. Younger or older than you?
A. Two years older.
Q. Who done the cooking on Sunday?
A. Ma and Minnie.
Q. Who done the cooking on Sunday?
A. Mam-a and Minnie.
Q. Did you assist?
A. No, sir.
Q. What were you doing on Sunday morning?
A. Figuring out plans of a house in Ohio for Mr. Stevenson. After he got the figuring done he asked mam-a if mam-a could

come. He said let Minnie come over ther-, and ma said she could not let — go, and she let me go, so Minnie could do the cooking.

Q. Where was your papa at that time?

A. At the camp ground, I think, taking some pictures.

57 Q. Was that after breakfast or before breakfast?

A. After breakfast.

Q. What time of day was it?

A. I do not remember.

Q. Did you not have a clock or watch?

A. I do not remember.

Q. Now as near as you can fix the time?

A. It was before dinner.

Q. Well now, where were you when Mr. Stevenson spoke to get some one to come to his room?

A. In the kitchen.

Q. Where was Mr. Stevenson?

A. I do not remember. He came to the door and asked for me.

Q. Then you were in the kitchen and he came to the door?

A. Yes, sir.

Q. Do you remember what he said?

A. I remember of his speaking to mam-a to let us both go over.

Q. Then what happened; what was done?

A. Then I went over.

Q. You went over?

A. Yes, sir.

Q. Now, is the kitchen where they call the boarding-house?

A. Yes, sir.

Q. How far is that from the main building where you lived?

58 A. Just a few yards.

Q. Well, now, where did Mr. Stevenson go after he wanted one of you to go over there?

A. Over to his office.

Q. How long until you went over to the office?

A. About five minutes afterwards.

Q. When you went to the office what was he doing?

A. I do not remember.

Q. Was he in the office?

A. Yes, sir.

Q. What did he say to you when you went in?

A. He showed the pictures and arranged the figures, and I got a pencil and paper.

Q. Now, what was in the room; what kind of furniture?

A. There was a stand, a small library, and chairs, and a sofa.

Q. Well now, when you got the pencil, did you use it?

A. Yes, sir.

Q. Did he tell you what he wanted did with it?

A. Yes, sir.

Q. What did he say that he wanted you to do?

A. To copy the figures and work them out.

Q. What did you do?

59 A. I went to work doing the plats.

Q. Was there any table there?
A. Yes, sir.
Q. How long were you there?
A. I do not remember now.
Q. Now, just state to the jury what happened after you began figuring—what Mr. Stevenson did, all about it, just in your own way.
A. Well, when I commenced writing he told me I didn't—he put his arm around me.
Q. Just tell what he did, now.
A. (Witness crying.)
The COURT: What was the first that he did—what did he do when he first came in? Just tell the court and jury just exactly what occurred.
A. He got his arm around me and laid me down on the floor in the other room.
Q. Did he take you in the other room?
A. Yes, sir.
Q. How did he take hold of you?
A. Put his arm around me—put his arm around my waist and carried me in the other room and laid me down on the floor.
Q. Well, now, tell how he treated you.
A. He laid me down on the floor.
60 Q. Did you object to going in the other room?
A. Yes, sir.
Q. What did he say to you?
A. I wanted to get away on the floor, and told him I would call mam-a, and he said that she would not come.
Q. Did you say anything about going to tell anybody about that?
A. No, sir.
Q. Did you say anything about it?
A. He told me not to tell.
Q. He told you not to tell?
A. Yes, sir.
Q. Did he use any force—did he have something to do with your body?
A. Yes, sir.
Q. He did?
A. Yes, sir.
Q. How long did you remain there?
A. About ten minutes.
Q. Did you know anything at that time about—did you know what he meant to do?
A. No, sir.
Q. Did you know what he intended?
A. I didn't at first, until he had me down.
Q. And then after that you told him you would tell?
61 A. Yes, sir.
Q. That you would call mam-a?
A. Yes, sir; and he said that she would not come.
Q. And he said that she would not come?
A. Yes, sir.

Q. How long did you remain in the room after that?
A. I went right away.
Q. Did you say anything to your mother about it?
A. No, sir.
Q. Or your sister?
A. No, sir.
Q. Why did you not do it?

Mr. CLEARY: I object to it.

Q. Did you see Mr. Stevenson any more that day?
A. Yes, sir; saw him at dinner.
Q. Did you eat dinner at the same time that day?
A. Yes, sir.
Q. Did you see him any more until the next day?
A. I don't know.
Q. You don't remember?
A. No, sir.
Q. Now I will ask you if you ever went back to the room?
A. Yes; he wanted some picture cards addressed, adver-
62 tisements for selling a mill in Chillicothe, and he wanted me to write it out.
Q. Did you go back there?
A. Yes, sir.
Q. How did you happen to go back?
A. Mam-a told me to go back.
Q. How many times did your mam-a tell you?
A. I don't know. I told her I didn't want to go.
Q. She told you to go?
A. Yes, sir.
Q. Now, when was that?
A. That was about a week afterwards.
Q. About a week afterwards?
A. Yes, sir.
Q. Do you remember what day it was?
A. It was about the middle of the week.
—. ——.
A. Yes, sir.
Q. What happened to you then? Just tell what he did there.
A. Well, about the same as the other time.
Q. About the same?
A. Yes, sir.
Q. What did he do?
A. Put his arm around my waist and just pulled me down.
Q. What did he say to you?
A. I told him I didn't want to go.
Q. Then what else did he say?
63 A. Well, he said——
Q. Did he have relation at that time such as before?
A. Yes, sir.
Q. Well, when you went there was he in the office when you went in?

A. He was at the desk.
Q. The last time?
A. No, sir; that was the first time.
Q. Well, the last time?
A. The last time he was down at the mill; when he came in I started to go.
Q. Did you know at the time you went there that he was at the mill?
A. Yes, sir.
Q. You say that after you went there he came from the mill?
A. Yes, sir.
Q. Did anybody else ever have any relations of that kind with you?
A. No, sir.
Q. He had the same relation on that occasion as before?
A. Yes, sir.
Q. You were confined and had a baby?

The COURT: No controversy about that.

Q. How old were you at that time?
A. I was fourteen in September.
Q. Had you ever had much sickness before?
64 A. Yes, sir.
Q. How many times?
A. I don't know.
Q. About how many times?
A. Three or four.
Q. No more than that?
A. No, sir.

Cross-examination by Mr. CLEARY:

Q. How long did you live in Cov.?
A. Two years.
Q. Where did you live?
A. At the corner of Court avenue and Second.
Q. Down here by the bridge?
A. Yes, sir.
Q. You lived over Mrs. Byer's saloon?
A. Yes, sir.
Q. Where did you go to school?
A. Over here on Scott street and at the Catholic school on Seventh street.
Q. Had you progressed pretty fair in your studies?
A. Yes, sir; into the high schools.
Q. You had been out to Mr. Stevenson's place for the summer, had you?
A. Yes, sir.
Q. How did you happen to go out there?
A. Pa had so much to do at the camp ground, and he said as Minnie was gone I could go on a visit to Mr. Stevenson's.
65 Q. Did your father say he had made a contract with him?

A. Yes, sir.
Q. How long did you stay there?
A. About four weeks.
Q. Whereabouts did you stay?
A. At Mr. Stevenson's house.
Q. What was your father doing there?
A. Making pictures.
Q. Then you, your father, and mother was there?
A. Yes; mam-a.
Q. Was Mr. Stevenson there during that time?
A. Yes, sir.
Q. During that four weeks?
A. Yes, sir.
Q. Then you came back to Covington and went back on the 7th of October?
A. Yes, sir.
Q. What fixes the 7th of October in your mind as when you went there?
A. Well, on that evening we went there.
Q. Well, is there anything particular that calls the day of the month to your mind or the day of the week?
A. No, sir.
Q. Nothing at all?
A. No, sir.
Q. You think it was on Tuesday, do you?
A. Yes, sir.
66 Q. Then you say that Mr. Stevenson came home. He had been away?
A. Yes, sir.
Q. He came on Friday evening?
A. Yes, sir.
Q. How many days after you went there until Mr. Stevenson came home?
A. I do not recollect about that.
Q. Why do you think it was Friday?
A. Well, it was two days after we went there.
Q. Did you see Mr. Stevenson until Saturday?
A. I don't remember.
Q. You don't recollect to have seen him until on Saturday?
A. No, sir.
Q. On Sunday morning you took breakfast at home?
A. Yes, sir.
Q. What did your father do?
A. Doing photographing of the camp. He went over on the grounds.
Q. Did you see him?
A. No, sir.
Q. Do you know where he was?
A. He was at breakfast.
Q. Who took breakfast that morning?
A. All of them.

Q. Any workmen?

A. I do not remember.

67 Q. There was a man there named Sheehee?

A. Yes, sir.

Q. Where is he now?

A. I don't know.

Q. Do you know whether he staid there or not?

A. At that time?

Q. Yes.

A. I know that he was there.

Q. Don't you know that he lived there—went away from Mr. Stevenson's?

A. No, sir.

Q. Don't you know Mr. Sheehee?

A. Yes, sir.

Q. Now, what time did you go to Mr. Stevenson's office?

A. It was in the forenoon.

Q. How long after breakfast; several hours?

A. About two hours, I guess.

Q. About two hours?

A. Yes, sir.

Q. You went up there to assist Mr. Stevenson in addressing postal cards?

A. No, sir; to fix up drafts of the house.

Q. Some drafts?

A. Yes, sir.

Q. He put his arms around your waist?

A. Yes, sir.

Q. And kissed you?

A. Yes, sir.

68 Q. What did he say?

A. Didn't say anything.

Q. He took you in the other room?

A. Yes, sir.

Q. Laid you down on the floor?

A. Yes, sir.

Q. Had connection with you?

A. Yes, sir.

Q. What did you say?

A. I said I would hollow for mam-a. He said mam-a would not come.

Q. How far was your mother away from you?

A. About fifty yards.

Q. How do you know it was fifty yards?

A. I don't know; I think it was that far.

Q. Have you and your father conversed the matter over and fixed upon fifty yards?

A. No, sir.

Q. No measurements made that you know of?

A. No, sir.

Q. Did you ever tell your father about what happened?

A. No, sir.
Q. Did you ever tell your mother?
A. Not then.
Q. Well, afterwards did you?
A. Yes, sir; afterwards.
69 Q. When you discovered you were in the family way?
A. Yes, sir.
Q. Did you tell her that it took place on the bed?
A. No, sir.
Q. How long do you say that he had you down on the floor?
A. I don't remember.
Q. You didn't tell your father or mother it was on the bed?
A. No, sir.
Q. Did he say anything after he had accomplished this?
A. No, sir.
Q. He did not say anything to you?
A. He did not.
Q. Got right up and went back?
A. Went back.
Q. Didn't you go back and help him with his work?
A. No, sir.
Q. Did you go over to the kitchen then?
A. Yes.
Q. How long, if you can tell, were you away from the house altogether from the time you left for Mr. Stevenson's office until you returned?
A. About a week.
Q. No; that Sunday morning, how much time from the
70 time you went to his office until you returned to your home?
A. Half an hour, probably.
Q. Now, then, he was in that room about ten minutes?
A. Yes, sir.
Q. He was talking to you while you were assisting in those drafts. How long did he talk to you?
A. I could not say; about a half an hour.
Q. What were you talking about? How long were you in the office with Mr. Stevenson?
A. I don't know.
Q. Do you recollect what you were doing in there—any conversation between you and Mr. Stevenson?
A. No, sir; only I was figuring out upon these drafts. I was figuring.
Q. Well, now, after you went there and came back and had your dinner, did you go about your business as usual?
A. ——.
Q. You did not feel anything; just as well as you ever was?
A. ——.
Q. ——.
A. ——.
Q. Did he have his clothes on?
A. Yes, sir.

Q. ——.
71 A. ——.
Q. ——.
A. ——.
Q. Was it accompanied with any pain?
A. Yes, sir.
Q. ——.
A. ——.
Q. A good deal of pain? Did you scream?
A. No, sir.
Q. ——.
A. ——.
Q. Then you went back to the office again on another occasion?
A. Yes, sir.
Q. On this particular Sunday did your mother announce dinner was ready before you left the room?
A. Yes, sir.
Q. How did you find out that dinner was ready? How did you know?
A. She hollowed over.
Q. Hollowed over to go?
A. Yes, sir.
Q. Now, on this second occasion, that was a few days afterwards, was it?
A. Yes, sir.
Q. About the middle of the week?
A. Yes, sir.
Q. Do you recollect what day that was?
A. No, sir.
72 Q. Why do you say it was a few days afterwards?
A. ——.
Q. I want to know what it is that fixes it in your mind that it was two or three days afterwards.
A. Well, it was about a week afterwards.
Q. Do you recollect the date?
A. No, sir.
Q. Well, had another Sunday intervened?
A. Yes, sir.
Q. Another Sunday had come?
A. Yes, sir.
Q. Then it was after that Sunday and the following?
A. Yes, sir.
Q. Then as much as seven or eight days?
A. Yes, sir.
Q. Had Mr. Stevenson left there about that time—after this second time?
A. No, sir; not that I remember.
Q. Was he about the place all the time?
A. He went off and came back again.
Q. Do you know where he went to?
A. No, sir.

Q. You don't?
A. No, sir.
Q. You say that you didn't know anything about it until your mother discovered that you were in that condition?
73 A. Yes, sir.
Q. When was it that your mother discovered you were in that condition?
A. About three or four months afterwards.
Q. Do you recollect whether it was that year or the next year?
A. This was in October; about after Christmas.
Q. Well, was it right after Christmas; about how long?
A. Well, I could not say.
Q. Was it *is* much as a month?
A. No, sir; it was not.
Q. Do you think it was directly afterwards?
A. Yes, sir; I think it was just after Christmas; I think about two weeks.
Q. Did she tell your father about it at that time?
A. Yes; I guess so.
Q. Did your father have any talk with you about it?
A. No, sir.
Q. Did you go and have a warrant issued against Mr. Stevenson or your father?
A. Father done that.
Q. Did you know it was to be done?
A. I heard about it afterwards.
Q. How long was that after your mother was told?
A. Well, I don't know.
74 Q. Where are you living now?
A. Williamstown.
Q. Have you been back to Covington to live?
A. No, sir.
Q. Never lived in Covington after you left there?
A. No, sir.
Q. Were you present at the trial of Mr. Stevenson?
A. Yes, sir.
Q. And testified there?
A. Yes, sir.
Q. You say that on this Sunday morning he came to the door and asked for one of you?
A. Yes, sir.
Q. On the trial of the case?
A. ——.
Q. You said that he called over to you at the trial at Corinth. You remember whether you said that or not?
A. I do not.
Q. Well, now, is it the truth that he come to the door—opened the door?
A. The first time he called mam-a was on the porch.
Q. Then after that he went to the door?
A. Yes, sir.

Q. I will ask you upon the examining trial if you did not
75 swear that this second occasion was two or three days after the first?
A. It was about a week.
Q. You did not say two or three days? You said about a week?
A. Yes, sir.

Redirect examination:

Q. What was your mother trying on, if anything, when she found this out?
A. Trying on a corset.
Q. You never told your mother until she was trying on the corset?
A. No, sir.
Q. You don't know how long that was after Christmas?
A. I think about three weeks.
Q. That is the time the circumstances were told?
A. Yes, sir.
Q. You never told it before?
A. No, sir.
Q. Did you tell who it was?
A. Yes, sir.
Q. Who did you tell her it was?
A. Mr. Stevenson.

And also Mrs. BARBOUR, being duly sworn, testified on behalf of the plaintiff as follows:

Examined by Mr. O'NEAL:

Q. You are the mother of Hattie Barbour?
A. Yes, sir.
76 Q. How old is your daughter?
A. Seventeen last September.
Q. Where do you live?
A. In Williamstown.
Q. Do you know E. O. Stevenson?
A. Yes, sir.
Q. When did you first become acquainted with Mr. Stevenson?
A. In 1884.
Q. Do you remember in what month?
A. I think it was in September. It was along in the latter part of the summer.
Q. What was going on down at the camp that made the acquaintance?
A. My husband's connection with Mr. Stevenson down at the camp grounds.
Q. Was the camp meeting going on then?
A. No, sir.
Q. You were not there during the camp-meeting season?
A. No, sir.
Q. Do you remember what time you went out?

A. I disremember exactly.
Q. Did your family go with you?
A. Hattie.
Q. Miss Minnie did not accompany you?
A. No, sir.
77 Q. How long were you out at Stevenson's camp grounds?
A. I think something near six weeks.
Q. Whereabouts did you board or lodge or have quarters?
A. At the boarding-house.
Q. Did they have a boarding-house on the land?
A. Yes; at his restaurant.
Q. What were you engaged in during that time? Did you do any service?
A. Assisted my husband in his business.
Q. You did not do anything toward keeping house?
A. No, sir; not a thing.
Q. Where did you lodge—in the same house?
A. Yes, sir.
Q. Did you lodge in the same rooms you afterwards lodged in when you went back?
A. No, sir.
Q. Where did you eat or live?
A. At Mr. Stevenson's.
Q. You were there about six weeks? Did you all live there together—your husband, you, and your daughter?
A. Yes, sir.
Q. Was Stevenson there all the time during that time?
—. ——.
Q. Well, how long after you left there—you and your
78 folks—before you saw Stevenson again?
A. A short time after that.
Q. Where did you next see him?
A. At Covington, at our house.
Q. You lived in Covington, then?
A. Yes, sir.
Q. Did you hear any conversation then between him and your husband?
A. No, sir.
Q. Did you understand what his business was over here?
A. No, sir; my husband told me.
Q. How long after he visited you, at your place in Covington, before you all went out there?
A. A very short time.
Q. Did you move out there?
A. Yes, sir.
Q. Take any household goods out there besides clothing?
A. Everything, and the clothing.
Q. Took your clothing and furniture?
A. Yes, sir.
Q. Do you remember what time you got there on that occasion?
A. The 7th of October.

Q. Do you remember the day of the week?
A. On Tuesday.
Q. Started from here on Tuesday?
A. Yes, sir; started on Tuesday and arrived there in the evening.
79 Q. And Mr. Stevenson's is near Corinth—south of Corinth?
A. Yes, sir.
Q. About how far?
A. I do not know.
Q. As much as three miles?
A. Perhaps it is.
Q. You arrived at Corinth Tuesday, about dark?
A. Yes; it was getting late.
Q. Did you go to Stevenson's place that night?
A. Yes, sir.
Q. Did you remain there after that?
A. Yes, sir.
Q. Since that you remained at Stevenson's?
A. Yes, sir.
Q. Was Stevenson at home when you got there? When did he make his appearance at the place after you arrived?
A. On Friday night.
Q. You in the meantime had gone into quarters that had been arranged for you?
A. Yes, sir.
Q. Well, on Saturday was Stevenson there?
A. Yes, sir.
Q. On Sunday, do you remember that day?
A. Yes, sir.
80 Q. Is there a boarding-house or basement a short distance from the residence?
A. Yes, sir.
Q. I will ask you if on Sunday you were called or necessitated for any reason of being over at the boarding-house.
A. Yes, sir; I was there, very busy.
Q. Anybody there with you?
A. Myself and children.
Q. Was there a black woman there?
A. No, sir.
Q. Had she gone that day?
A. Yes, sir; went away that morning.
Q. What was you doing there?
A. Getting dinner.
Q. Do you remember what time you went to the boarding-house?
A. Exactly, I can't tell tell just what time.
Q. Who was with you?
A. My girls.
—. Do you know where your husband was?
A. He had gone up to the camp ground.
Q. That was some distance away?
A. Yes, sir. They were engaged in making some views.

Q. How far away is the residence from the camp ground and cottages?

A. I could not tell you; some little distance.

81 Q. Half an hour's walk?

A. Yes; I think so.

Q. Well, to pass from the house where you lived over to the boarding-house, do you know how far it is?

A. I think between forty and fifty yards.

Q. You don't know anything about it by actual measurement?

A. No, sir.

Q. How do you reach it?

A. There is a bridge to go across.

Q. There is a bridge?

A. Yes; a little walk.

Q. A kind of rustic bridge?

A. Yes, sir.

Q. You were all over there?

A. Yes, sir.

Q. Was Miss Hattie with you there?

A. She was there, too.

Q. Mrs. Barbour, tell the jury whether Miss Hattie or either of your daughters was called away over there?

A. Yes; Miss Hattie was called away.

Q. Tell the jury what called her away.

A. Mr. Stevenson wanted some drafting done. I was busy getting dinner, so I told Hattie to go.

Q. You told Hattie to go?

A. Yes, sir.

Q. How often did he call, if you remember—do you remember?

82 A. No, sir.

Q. Give the jury an idea about the time of day she was called there by Stevenson.

A. Well, it was between eleven and twelve o'clock.

Q. Was Miss Hattie the oldest or the youngest?

A. She is the youngest; Miss Minnie is the oldest. Miss Minnie was engaged in getting dinner.

Q. What was it Mr. Stevenson wanted?

A. Wanted some drafting done. I think it was about building a house in Mingo, Ohio.

Q. You sent your daughter over?

A. Yes, sir.

Q. You say that you don't remember whether he called more than once or not?

A. No, sir; I do not remember but one time now.

Q. How long was your daughter gone?

A. I guess about fifteen or twenty minutes; maybe a little longer.

Q. When did you next see them?

A. When I called them to dinner Hattie came first.

Q. Then after the time she went you did not see them until you called them to dinner, and Miss Hattie came first?

83 A. Yes, sir.

Q. Was your attention attracted to her?

A. No, sir; not particularly. I was busy about dinner and attending to the work, and I didn't notice about anything.

Q. You sat down to dinner?

A. Yes, as soon as she came over.

Q. Do you remember whether your husband was there?

A. Yes, sir.

Q. He had returned?

A. Yes, sir; he had returned.

Q. Do you remember who sat at dinner that day?

A. I don't remember anything particular.

Q. Do you remember any one of the hands?

A. No, sir; not at that table.

Q. They did not eat at the table with the Stevenson's family?

A. No, sir.

Q. Do you remember Miss Hattie being called again, on another occasion, to go to this man's office?

A. Yes, sir.

Q. When did that occur, if you remember the circumstances about it without my asking you?

A. Well, along in the first part of the week.

84 Q. About how many days afterwards?

A. About three or four days.

Q. What was the circumstance or pretence then?

A. He wanted her to come over to address some postal cards.

Q. What did he say he wanted?

A. He wanted the children to do some writing for him, or something of that kind.

Q. Where were you at that time?

A. In the boarding-house.

Q. Over at the same place again?

A. Yes, sir.

Q. Do you remember what time of day that was?

A. It was after dinner.

Q. Do you remember where your husband was—whether about the place or not?

A. No, sir; I don't think that he was about at all.

Q. Was there anybody about the place?

A. No, sir; only the children.

Q. Well, tell the circumstances of what occurred at that time.

A. I spoke to her, and she said, "Mam-a, I don't want to go over;" she says, "I am tired," and I made her go, but she went unwillingly.

Q. How long was she gone that time?

85 A. I can't tell; at any rate, not very long, though.

Q. Did you call her back? Do you know the circumstances of her returning to you—do you remember?

A. No, sir; I do not remember exactly now.

Q. I will ask you to tell the jury whether there was any application after that for her.

A. No, sir; not that I remember.

Q. I will get you to state if you at any time desired your daughter to go to his room for any purpose?

A. Yes; I sent her over there to see about dusting and such things as that.

Q. Did your daughter give birth to a child?

A. Yes, sir.

Q. Do you remember the date?

A. The 10th of July.

Q. In 1885?

A. Yes, sir.

Q. Do you know how long your daughter reached womanhood?

A. Since thirteen.

Q. She had never been taken out of school?

A. No, sir.

Q. How did you first discover her pregnancy?

86 A. I thought she was developing. I thought she was getting fleshy, and noticed her corset, and I had her father get a pair, and he was to take them back if they did not fit, and I noticed hers were rather tight, and then I began to think something strange about it, and finally I found out.

Q. You disclosed it to your husband?

A. Right away.

Q. How long after that before you had Stevenson arrested?

A. Just the week following.

Q. Stevenson was away?

A. Yes, sir.

Q. Did your husband go to Corinth that evening?

A. No, sir; not that evening.

Q. Do you know whether he went to consult counsel?

A. Yes, sir.

Q. You had but recently gone out, and had no acquaintance there?

A. No, sir.

Q. Did you know a single family except the Stevensons?

A. I knew one by the name of Cunningham.

Q. Had you ever had any conversation with your daughter about her pregnancy *whether* before she told you on the occasion you have spoken of?

87 A. No, sir; I just supposed she had taken cold, and thought she was young and didn't think anything of it at all. I never dreamed of such a thing at all.

Q. Had she been complaining?

A. She had been complaining of feeling bad.

Q. Did you notice anything peculiar—anything about sickness?

A. Yes; but I didn't think anything of that. I suppose it was dyspepsia or something like that.

Q. She had never been in society?

A. No, sir; always been a child; she was small.

Q. Your maiden name was Ricketts?

A. Yes, sir.

Q. Where were you residing?

A. At ——, Ohio.

Q. How long did you remain at the Stevenson place after you discovered this?

A. Only a short time.

Q. Do you remember the kind of weather when you moved away from there?

A. Yes, sir; it was pretty cold.

Q. Had Mr. Stevenson ever been back there at the place after you discovered the pregnancy of your daughter?

A. Yes, sir.

Q. Had he been arrested then?

A. Yes, sir.

88 Q. You were called into court upon the investigation of the matter as a witness?

A. Yes, sir.

Q. Up to the time that he was arrested had he ever been back to the place?

Q. He was not arrested when he went back.

Q. After you discovered it he never came back or was there at the house, to your knowledge; but as soon as you got hands upon him he was arrested?

A. Yes, sir.

Q. Then you were all called to Corinth and you testified there a day or two?

A. Yes, sir.

Q. You had no home to go to?

A. No, sir; we had no home.

Mr. CLEARY: We object to this.

The COURT: If in addition to the act of seducing this child the defendant was guilty of the wrong of turning this family out in the cold, the court will instruct the jury, in addition to the facts of this suit, they may find vindictive damages, and the court will allow the plaintiff to show the condition of the family and the circumstances that surrounded it.

89 Q. What kind of weather was it — you were called out to that trial?

A. The weather was very severe.

Q. How did you travel from the Stevenson place out to Corinth?

A. We went up in a buggy.

Q. You went up in a buggy?

A. Yes, sir.

Q. Do you remember what day of the week it was that you left home?

A. It was the first of the week; I do not remember exactly.

Q. How many days were you at the trial?

A. I don't know; I think it was on Monday.

Q. Was your furniture brought into town while you were there?

A. Yes, sir.

Q. Did you know that it was coming?

A. No, sir; they came and asked us where it must be delivered.

Q. Where was it, then?
A. It was taken to the depot.
Q. Was it in wagons in the street?
A. Yes, sir.
Q. How did you leave the doors of the rooms you occupied?
A. We left the doors locked.
Q. Your furniture, trunks, and clothes there?
A. Yes, sir.

Q. I will ask you if your wearing apparel was not hung
90 up in the *the* closets?

A. Yes; it was hung up.
Q. In what shape was it brought back?
A. It was brought back in the trunk; thrown in.
Q. Your beds taken down?
A. Yes, sir.
Q. And brought on the streets of Corinth and demanded what should be done with it?
A. Yes, sir.
Q. Your family trinkets gathered up?
A. Yes, sir.
Q. You had no place to put them?
A. No, sir.
Q. What was finally done with the furniture?
A. They were left at the depot; the goods were left in an open wagon.
Q. Anything to cover that?
A. Nothing except the cover spread over them.
Q. Your daughter is an educated woman, is she not?
A. Yes, sir.
Q. Had passed in the schools?
A. Yes, sir.
Q. Instructed in music?
A. Yes, sir.
Q. In drawing?
A. Yes, sir.

Q. Had been in school all her life?
91 A. Yes, sir; ever since we have been here.

Q. You and your husband kept her under the direction of teachers of art and music?
A. Yes, sir.
Q. She is still under that instruction?
A. Yes, sir.

Cross-examination—Mr. CLEARY:

Q. On that morning when your daughter went to Mr. Stevenson's office you think she was gone fifteen or twenty minutes?
A. It was not very long; a very short time.
Q. When she came back she came back in response to the summons to dinner?
A. Yes, sir.
Q. Did you go over there to call her?

A. No, sir; I went to the door and called.
Q. You saw her when she came in?
A. Yes, sir.
Q. Was her face flushed?
A. Yes; considerably flushed.
Q. Did you ask her anything about it?
A. No, sir; not at that time.
Q. Well, when did you recollect that fact?
A. After I found out about her trouble.
92 Q. Did that attract your attention at the time?
A. No, sir.
Q. How did Mr. Stevenson apply to you for your daughter?
A. We were over there cleaning up and he wanted to know if one of the children or both of them could come over. I told him I did not know, and he said for them to come, and then he called over for Minnie, but I said she was busy and sent the other.
Q. Then you had been over dusting around in the morning after breakfast?
A. Yes, sir.
Q. Then it was at the office that he asked you to send one of the children?
A. Yes, sir.
Q. He didn't come over to your place?
A. No, sir; he just called.
Q. Did he not come over and stand in the doorway and have some conversation?
A. No, sir; he called from the porch over.
Q. Who did he call for?
A. He called for me, of course.
Q. What did he say?
A. He wanted to know if she could come over and help
93 about the drafting.
Q. Now, the next time was three or four days after that?
A. Yes, sir.
Q. About the middle of the week?
A. Yes, sir; something near.
Q. I understood you to say that your daughter had reached womanhood, the condition of womanhood, about a year before?
A. Yes, sir.
Q. When about thirteen years of age?
A. Yes, sir.
Q. You had noticed that?
A. Yes, sir.
Q. Had you ever seen anything on the part of Mr. Stevenson indicating any intimacy with your daughter?
A. I seen that he didn't. I thought he was a man that needed watching. I noticed —, so I kept my eye on the children. I did not allow them to go over unless I was with them.
Q. You were a witness at the trial at Corinth?
A. Yes, sir.
Q. Did you state upon that occasion that you had never seen any-

thing whatever that caused any suspicion of Mr. Stevenson,
94 or anything improper between him and your daughter, or anything whatever that indicated to your mind anything wrong?

A. No, sir.

Q. You made no such statement as that?

A. No, sir.

The COURT:

Q. When did you first discover the condition of your daughter? Do you remember the date?

A. No, sir; I don't.

Q. Do you remember the month?

A. Well, it was after Christmas some time. I think it was right after Christmas.

Redirect examination:

Q. How many days before the arrest?

A. Only a few days.

Q. About how many?

A. I think four or five days.

The COURT: Did you or your husband have any notice to leave that place until after the arrest?

A. No, sir.

And also MINNIE BARBOUR, being duly sworn, testified on behalf of the plaintiff as follows:

Examined by Mr. O'NEAL:

Q. You are the daughter of J. Q. Barbour?

A. Yes, sir.

95 Q. You are the sister of Hattie Barbour?

A. Yes, sir.

Q. How old are you?

A. Three years and two months older than she is.

Q. Do you know E. O. Stevenson?

A. Yes, sir.

Q. Did your father's family live at Stevenson's place at any time?

A. Yes, sir,

Q. Do you remember at what time you moved to Stevenson's place?

A. Yes, sir; we — from Covington in October, I think.

Q. Had you been out there before?

A. No, sir.

Q. Your parents and sister had been there previously?

A. Yes, sir.

Q. Do you remember how long before they had come from there?

A. I do not remember.

Q. A short time?

A. They were not there long.

Q. After they came back, before you moved out, will you tell the jury whether Stevenson was at your house over in Covington?

A. Yes, sir; he was there.

Q. Did you hear anything of any negotiations or arrangements between them by which your father was to move out there?

96 A. Yes, sir.

Q. State what arrangement was made about his going out there.

A. Well, I don't know as I could tell.

Q. Well, it was arranged that he should go out?

A. Yes, sir.

Q. Was the family to go?

A. Yes, sir.

Q. How long was Mr. Stevenson at your house at that time?

A. I don't know; just a little while.

Q. How long after he was at your father's house and made these arrangements before you went out?

A. It was September, I guess.

Q. And you went out the 7th of Oct.?

A. Yes, sir.

Q. Do you remember the 12th day of October?

A. I think Tuesday was the day we moved.

Q. You left the railroad at what point?

A. At Corinth.

Q. Mr. Stevenson's place is two or three miles south of that?

A. Yes, sir.

Q. At what time did you arrive at Mr. Stevenson's place—the same day?

A. Yes, sir; the same day; on the train.

Q. Was he at home?

A. No, sir.

97 Q. When did he return? Do you remember?

A. Saturday night, about supper time.

Q. Was you at home on the Sunday following?

A. Yes, sir.

Q. Do you remember whether Stevenson was there that day at home?

A. Yes, sir.

Q. I will ask you to tell the jury what, if anything, you know of Stevenson applying to your mother for the assistance and services of one of the young ladies. Did you hear him make any application to your mother?

A. Yes, sir; he asked for one of us.

Q. I ask you if you remember of his making a request of your mother for the services of one or other of the young ladies yourself.

A. He asked mam-a if one of us could help him. He said he was busy.

Q. What did he say he wanted of her?

A. Wanted her to write postal cards.

Q. Where were you at the time?

A. I was at the kitchen.
Q. Was that the house in which Stevenson was?
A. No, sir; I was at the boarding-house.
Q. The dining-room is also called the boarding-house?
98 A. Yes, sir.
Q. That is not adjoining the building in which the office and bed-rooms are?
A. No, sir.
Q. Your mother was over there, too? Where was your sister?
A. I think she was there.
Q. Do you remember how long that was before the dinner hour?
A. I believe about 11 o'clock or somewhere about half past.
Q. Do you know whether your mother was about getting dinner?
A. Yes, sir; had commenced dinner.
Q. Your younger sister was sent?
A. Yes, sir.
Q. Do you know where Stevenson was when he called?
A. I believe in the door of his office.
Q. Do you remember whether more than one request was made before she was sent.
A. I don't know.
Q. Did you see anything particularly of your sister after she went until the dinner hour?
A. No, sir.
Q. You dined that day in the boarding-house?
A. Yes, sir.
Q. Were you back at the residence or place where the
99 office or bed-rooms are—your own chambers were—before dinner was prepared?
A. No, sir.
Q. Were you over there?
A. I don't think I was.
Q. You have no recollection of seeing your sister until she came to dinner?
A. No, sir.
Q. Have you any idea how long your sister was over there after she was sent to do this work for Stevenson?
A. I think she was over there until noon.
Q. What time did you eat dinner?
A. About twelve, I think.
Q. No circumstance or incident occurred at all to attract your attention to the house or your sister until dinner?
A. No, sir.
Q. Did anything attract your attention then?
A. No, sir.
Q. Well, do you remember whether your father, J. Q. Barbour, was at home that day?
A. I think he went out to take some views.
Q. The instruments with which he worked were at the camp grounds, were they?
A. Yes, sir.

Q. Do you remember what time he returned to the house;
100 whether before or after dinner, or during the meal?
A. I think it was after dinner.
Q. You and your sister were the only children?
A. Yes, sir.
Q. Has she ever lived away from home?
A. No, sir.
Q. Never been away from home to live?
A. No, sir.
Q. You have always been with your sister?
A. Yes, sir; only when I visited.
Q. Grown up together and occupied the same room, had you not?
A. Yes, sir.
Q. Was there anybody else there at the house at the time your sister was called there or up to the dinner hour save Stevenson, your mother, and you two young ladies?
A. At the boarding house?
Q. At either house.
A. I did not see anybody.
Q. Well, you continued to reside at Stevenson's place with your folks?
A. Yes, sir.
Q. Through that week and the following week?
A. Yes, sir.
Q. And for some two or three months afterwards?
A. Yes, sir.
101 Q. I will ask you to tell the jury whether you remember of his applying at any time after that Sunday for you or your sister's services?
A. Yes; he asked mam-a if she could not come again. Sister did not go, and then I went. He asked mam-a for sister. She said she didn't want to go, and mam-a told me to go.
Q. You went there and wrote for him on some occasions?
A. Yes, sir.
Q. Do you remember any other occasion when she did go?
A. Yes; she did go again.
Q. She went another time?
A. Yes, sir.
Q. Was that after you had been once?
A. I do not know.
Q. What did he employ you about?
A. About writing postal cards.
Q. What was these postals? What was it about?
A. He wanted to sell a mill.
Q. At the time you went he asked for your sister?
A. Yes, sir.
Q. Well, then, after that do you remember of your sister going?
A. I do not know whether it was before or after.
Q. You remember that she went there a second time on
102 his request to your mother?

A. Yes, sir; and I went over; helped to address them.
Q. You went over and helped to address them?
A. Yes, sir.
Q. Was she there a second time, in your absence, by herself?
A. Yes, sir.
Q. Do you remember how long that was after the first time, that she was there on Sunday?
A. I could not remember whether Wednesday or Friday of that week.
Q. Do you remember how long she was there alone that day?
A. No, sir.
Q. Where were your family during that second occasion?
A. Over at the boarding-house.
Q. There was a black woman there when you went?
A. Yes, sir.
Q. Do you remember when she left?
A. On that Sunday.
Q. After she left you and your mother done the work for the hands still?
A. Yes, sir.
Q. Have you any idea of the distance? Do you know how far it is from that house where the office and bed-rooms and Stevenson's are to that boarding-house where you went to cook?
103 A. I don't know; I guess, about fifty or sixty yards.
Q. You never measured it and know nothing about the measurements?
A. No, sir.
Q. You suppose fifty or sixty yards?
A. Yes, sir.
Q. At the time your sister was directed to go *to* the second time, I will ask you what she said about going, if anything? Was she willing to go?
A. No, sir; she did not want to go, and mam-a told me to go on.
Q. Did she give any reason why she did not want to go?
A. She said she didn't like Mr. Stevenson.
Q. You continued to occupy the same room and sleep with your sister?
A. Yes; for awhile, and then mam-a made her sleep in her room.
Q. When did you discover your sister's trouble; do you remember?
A. No, sir.
Q. How did you learn of it?
A. Mam-a told me.
Q. That is the first intimation you had of it?
A. Yes, sir.
Q. Although you lived with her all the time?
104 A. Yes, sir.
Q. And knew all about her associations?
A. Yes, sir.
Q. I will ask you if your sister had taken off short dresses then?
A. No, sir.

Q. You say she had not taken off short dresses?
A. She wore short dresses.
Q. She wore child's clothing?
A. Yes, sir.

Cross-examination by Mr. CLEARY:

Q. On that Sunday morning were you at Mr. Stevenson's room at all?
A. We lived there.
Q. Were you at his room—at his office?
A. I was there dusting.
Q. Was that the time he asked for one of you to come?
A. I do not remember what time, although he may have asked; I do not remember.
Q. I understood you to say that he stood at his door and called. What did he say?
A. He said he wanted one of us to come over.
Q. Which one did he call for? Where was your sister?
A. In the dining-room. He called mam-a, I think.
105 Q. Now you think that was about half past ten o'clock to eleven?
A. Yes, sir.
Q. Do you remember, when the dinner was ready, of your mother calling them to dinner?
A. Yes; at twelve.
Q. Do you recollect of your mother calling them?
A. I don't know whether she did. Sometimes she did.
Q. Do you recollect whether she called — on that Sunday morning?
A. I do not recollect.
Q. Didn't you go after that—to come to dinner that day?
A. I don't remember that.
Q. You say that you recollect of your sister being there some other time?
A. Yes, sir.
Q. Were you with her?
A. I went in.
Q. You and your sister, both?
A. Yes, sir.
Q. After this Sunday morning?
A. Yes, sir.
Q. When was that?
A. I think on Wednesday or Friday.
Q. Which do you think it was—Wednesday or Friday?
A. I think it was Wednesday.
Q. Was Mr. Stevenson there?
A. Not when I went in there.
Q. Had he been there before that?
106 A. Yes, sir.
Q. He had not been away?
A. I think not.

Q. Had your sister worked for him—addressing postal cards?
A. I did a little while.
Q. Did you and your sister go there together or separately?
A. Separately.
Q. Which went first?
A. My sister.
Q. Did she stay there longer than you, or did you leave her there?
A. I do not know.
Q. Don't you know whether you went away and left your sister there?
A. No, sir.
Q. Was that before or after dinner?
A. I do not recollect.
Q. Did you go up there with your sister on any other occasion except that one?
A. Not to write.
Q. Well, for any purpose? Did you go there for any purpose?
A. Sometimes I went there to clean up the room.
Q. You both went up there to clean up the rooms?
A. Yes; sometimes, and mam-a and myself.

Redirect examination:

107 Q. You occupied rooms in the rear of the house—back of this office—where you lived?
A. Yes, sir.

Mr. ONEAL: The plaintiff rests.

EDWARD O. STEVENSON, being duly sworn, testified in his own behalf as follows:

Examined by Mr. CLEARY:

Q. Where do you reside?
A. At Mingo, Champaign county, Ohio.
Q. Will you state, if you please, any arrangement that you had with Mr. Barbour and his family by which they were to go to your place in Grant county—when it was and what it was?
A. In the latter part of the second week in September I came through the city and made an offer to Mr. Barbour to go out and work at the photographing and millwork, and his wife to do the housework, at my mill in Grant county, and he was to wait until I returned from Indiana and then answer, as I expected to return from there very shortly. I was detained there over two weeks, and upon my return to Corinth I found them at the place. I let it run on in that way. At the time I offered him fifteen dollars a month for himself and two dollars a week for his wife, at the time, to
108 do my work; so when I found him there I let it run on in that way. I returned there on Friday evening before the date of this offense *is* charged, which is the 13th of *of* October. They had been there some days before. I staid there from Friday until Monday morning, when I and two mill hands returned to Ohio to vote, at the October election. On Sunday Mrs. Barbour and

the girls took charge of the cooking, for the first meal, the cooking of dinner, and they were late about dinner. We did not have dinner until somewhere between one and two o'clock. The negro family had left after breakfast, in the morning. I had been away, been gone over two weeks, and on this Sunday there was assembled different persons there, hands, &c.—quite a large number—from time to time during the forenoon; I guess ten or fifteen; and in the afternoon there were others there; they commenced coming in about 8 o'clock. There was Hughes, Gideon Hughes; he staid there until we went out to dinner; others kept coming and going. Mr. Hughes was employed at the time, and when I was there on Sunday spent a good deal of time in my office.

109 Q. Now, going back again, they commenced to serve in your employment on Sunday?

A. Yes, sir.

Q. What kind of business was it you carried on there?

A. Saw-mill and lumber mill.

Q. Who was the business man?

A. John Guy. Mr. Isaac Cunningham was the engineer and kept the time book.

Q. Now—that time book—what did he keep?

A. The time of the hands and my presence and absence from the mill.

Q. Did he keep an account of your coming and going?

A. Yes; for months before these people ever came there.

Q. You have heard a description of the place given here; is that correct in the way it is described on this card? (Showing witness plat.)

A. It is, substantially; only the boarding-house is much nearer than is stated.

Q. Just look over that plat and see if it — correct.

A. That is marked erroneously (indicating). This house is a shed-room, built after they came there; this room was added just before they left; this is the main building.

Q. Where is your office?

110 A. My bed-room is there.

Q. Is there a communication between your office and this room here (indicating)?

A. Yes, sir.

Q. This room is where they occupied?

A. They occupied this room here, entering in there. There is a door there and a window there (indicating).

Q. Now, here is the place over here called the boarding-house. How far is it across that space there between the two houses?

A. From the entrance of one to the entrance of the other it is just eighty feet.

Q. You have measured it accurately, have you?

A. Yes, sir; this is the kitchen—the boarding-house; there is a windows here and here, and a door goes in here. The buildings are of the saw-mill style—inch boards set up and battened.

Q. Did you breakfast with these parties that Sunday morning?

A. Yes, sir.

Q. Please tell us how you disposed of your time that Sunday morning after breakfast?

A. After breakfast I spent the entire forenoon until dinner
111 in my office. The hands and neighbors knew that I would be away the next Monday morning on account of going to Ohio—on account of the election.

Q. Was Miss Hattie Barbour in your office that morning for any purpose?

A. No, sir.

Q. Was she not from half past ten to eleven o'clock?

A. No, sir.

Q. Or immediately before dinner?

A. Well, one of the girls came over and called to dinner; I don't know which one. I didn't see her, but heard her voice.

Q. Was anybody in there at the time she called you to dinner?

A. Yes; Gideon Hughes and Henry Snelling were in the room when I was called to dinner.

Q. You heard the statement of this young lady on the stand here?

A. Yes, sir.

Q. As to what she says you did to her on that day?

A. Yes, sir.

Q. Did you do anything of the sort?

A. No, sir; no approach to it.

Q. Did you ever have any connection with her, under any circumstances, at that place?

A. No, sir.

Q. Did you ever have anything to say about anything of that sort?

112 A. No, sir.

Q. Did you ever have any conversation with this girl upon that subject?

A. No, sir.

Q. She stated here that some three or four days, or seven or eight days, afterwards she was again in your office?

A. She was not. Following the same week I was in Ohio.

Q. Well, when you were there?

A. She was not there.

Q. And she says that you kissed her and put your hand around her waist?

A. I didn't do it.

Q. Do you say that is not true?

A. Yes, sir; I say it is not true.

Q. When did you go to Ohio?

A. Monday morning, the 13th of October.

Q. What part of Ohio did you go to?

A. Southern and Central Ohio, near Urbana.

Q. Did anybody go with you?

A. Our sawyer, John Gier.

Q. What did you go for?

A. To vote.
Q. What did he go for?
A. To vote.
Q. When did you return to Kentucky?
A. I returned the following Friday evening.
Q. Where did you go to in Ohio?
113 A. Well, I was at different places.
Q. You voted, did you, on that day?
A. Yes, sir.
Q. Where did you go to vote?
A. I went to Mingo to vote.
Q. Did you vote and did you stay there?
A. No, sir. I was at other points in Ohio.
Q. Did you go to your place that Saturday night?
A. Yes, sir.
Q. Who did you find there?
A. I found Bailer and the mill hands, Gier, who went with me to Ohio; the head sawyer remained.
Q. Well, when you got back how long did you remain at the mill?
A. Well, possibly all week; possibly longer—till the next week.
Q. Where did you go from there? I want you to give an account of your time from that up to February.
A. I think I returned to Ohio to——
Q. Well, now, how many persons was around the place upon this Sunday morning?
A. Well, I think not less than fifteen came to see me, and from three to five in my room all the morning.
Q. Can you tell who they were?
A. I can't recollect all of them; some mill hands, some
114 neighbors; there was two neighbors—one was C. C. Linn, a renter of the place and who owns the land adjoining; another man was Gideon Hughes—and the mill hands, Mr. John Gier, Gideon Hughes, Henry Snelling, and two or three others that were colored men.
Q. Did you have a young man in your employ by the name of Sheehee?
A. Yes, sir. J. C. Barnes was in my employ.
Q. Was Sheehee there?
A. Yes, sir.
Q. When did he leave your employ?
A. Right away after this development.
Q. Where did he go?
A. He went to Ohio.
Q. Did you discharge him?
A. No, sir.
Q. Will you now tell the jury the first time and all the circumstances under which any charge was made against you and brought to your attention?
A. I had been to central Kentucky; was at Frankfort; came up expecting to stop, and I met my mother at Georgetown, who had

come over from Ohio, and she wanted me to go over with her. I had ordered my horse and buggy to meet me at Corinth on Sunday morning, so I came up to Corinth and didn't stop. Mr.
115 O'Neal came on the train and he had me singled out by the conductor and asked an interview. I went back in the rear of the car with him and he told me who he was; that there was a woman in the question, and money was what he wanted; that he was representing Mr. Barbour on behalf of his daughter Hattie, who was *enciente*, and the charge was made of me being the father. I told him I was surprised at such a charge; it was nothing of my affair, and I would have nothing to do with it. He remarked, This is your second case. I told him yes, and it will be my second acquittal.

Q. What further was said?

A. He said I was a rich man and they were poor, and a little money would satisfy them.

Q. No arrangement between you?

A. He suggested I should come to Cov. to see about it, and he would have Barbour come down and see what he could do.

Q. He suggested that?

A. Yes, sir.

Q. Anybody suggested to see in Cov.?

A. Only him and Barbour.

Q. Was anything said about your having a lawyer?

A. I told him I would see my attorney. I went to meet
116 my attorney, and *and* he advised me to return to Corinth. I went back and notified these people to get out of my house.

Q. Who was you attorney?

A. Judge O'Hara.

Q. Did you advise with Judge O'Hara on that subject?

A. Yes, sir.

Q. State what now occurred with regard to your turning them out of the place. You went back to Grant county?

A. Yes, sir.

Q. Now state what happened.

A. It was pretty cold weather. I said just now it was Sunday I went to Ohio. It was Saturday I came back. On Monday morning I took two witnesses and went to Barbour to notify him that I had no further use for his services. He said that he would get out; he would go Tuesday morning. It was intensely cold, very bitter weather, and instead of going the came to town in my buggy and filed complaint against me for an outrageous rape, and I felt quite indignant at them. Still it ran on a day or two. In the mean time I went out to the place, and, these people not having removed, I packed up their goods, as counsel had suggested, and sent them to town.

117 Q. Now, will you tell the jury how you packed them up; how you got into the house?

A. It was my house; they had no right in the premises. I went in at the door they had went out of. I had my own keys. I had sent a man to the place for some papers on other matters, and when

he got there I had not arrived, so I went in at the door they came out of. It wasn't locked.

Q. How did you have the things fixed up?

A. No; I said I went in at the door. They left the window open. They had locked the door on the inside, and I went in at the window and opened the door and told the men to go in and take the things out.

Q. State how you sent them.

A. I called my teamster; had the goods packed up carefully and sent them to town; told the teamster to tell Barbour there were his goods. I had sent them to him. He did so, and they declined to receive them. They told the man to throw the goods out on the street. The man left his wagon. Mr. O'Hara came in and said let them stand there; they will come and get them, and the man came back to the house with the team.

Q. Did they get the goods?

118 A. Yes; they received them the next day.

Q. There was something said about Mr. Barbour being gone to look for some birds; do you know anything about that?

A. They had some pet birds there, but they had taken them to Cunningham's. They were not in the house when I went back; they had been taken up there for care.

Q. Did they get those birds?

A. Yes; the birds were carried off by them.

Cross-examination by Mr. O'NEAL:

Q. When was the first time you had notice of this action?

A. When I met you on the train at Corinth.

Q. You didn't know it before that?

A. No, sir.

Q. You had not been informed of the fact previous to that; you didn't say to me that you had heard there was trouble?

A. I heard that there was trouble out there, but they didn't tell me the nature of it.

Q. What trouble did you hear of?

A. That is all I heard; that there was trouble.

119 Q. Where were you when the train passed Corinth?

A. I was in the car.

Q. Did you have occasion to go outside?

A. Just as the train passed I went to the far end of the car.

Q. Where — you when I met you?

A. I was sitting in the middle of the car, on the left-hand side.

Q. Now, you say that you said to me that you heard that there was some trouble there. Now, didn't you know and hadn't you known for several days previous to that time of the charge?

A. No, sir; I did not.

Q. That is not true?

A. No, sir.

Q. You didn't know that you were charged with the offense?

A. No, sir.

Q. You just knew there was some trouble?

A. I did not know even that, as I often go to the mill and there is some trouble with the hands.

Q. Then you did know there was some little casual trouble at the mill?

A. Yes, sir.

Q. When you saw me you didn't know anything about my business?

A. No, sir.

Q. You were taken by surprise?

A. Yes, sir.

120 Q. What was said when I first met you? How was I introduced to you?

A. I do not know; I think the conductor told me a gentleman wanted to speak to me, or you came to me.

Q. Did not the conductor tell you and you come to me?

A. I think it was you came to me.

Q. Can you be positive; is it not true that the conductor said a gentleman wanted to see you?

A. I would not be positive.

Q. Is it not true, also, I said there was pretty serious trouble in Barbour's family, and you said yes, you had heard about it?

A. No, sir.

Q. Do you say that I said you were a rich man?

A. Yes, sir; and you said money was what they wanted.

Q. I was very much mistaken, was I not?

A. Well, you did not find out from me.

Q. Who did I say that I understood from you was a rich man?

A. I didn't ask you.

Q. Is that your reputation in the neighborhood?

Mr. CLEARY: I object to that.

Q. You say that I said Mr. Barbour was a poor man?

A. Yes, sir.

Q. Is that all I said?

121 A. That he was a poor man and I was a rich one, and money would satisfy him.

Q. Do you say that I said that Barbour was a poor man?

A. Yes, you did.

Q. What else did I say to you about it?

A. You said unless there was money there would be trouble; that you were determined to press it to the bitter end; that unless there was satisfaction in money you would prefer charges of rape; that you would do that.

Q. Did anybody hear you and I?

A. Not that I know of.

Q. Was anybody sitting around there?

A. I do not know.

Q. How many people were in the car?

A. I don't know.

Q. Now I will ask you if this is not the fact, that you came to me

and told me that the conductor had said that a gentleman was in the car and wanted to see you; I remarked, Yes, I have been out to Barbour's?

A. Well, I am not positive about that. I know we had an interview.

Q. You said, Yes, you had heard there was trouble out there?

A. Yes; I said I had heard there was trouble out there.

Q. Didn't I ask you who your attorney was?

A. Yes, sir.

Q. Did you tell me?

122 A. I don't know. I hadn't any occasion for an attorney then; of course, I had Judge O'Hara.

Q. Don't you know that you told me in the train that Judge O'Hara was your attorney?

A. Well, I don't know that I stated it.

Q. Didn't you tell me then and there that Judge O'Hara was your attorney, and didn't I say I knew the Judge very well; that whatever arrangement he might make would be satisfactory?

A. Well, I told you I would go to Judge O'Hara.

Q. Didn't you say to me that you wanted to get out of this trouble the best way you could?

A. No, sir.

Q. You didn't say that to me?

A. No, sir; when you came to me for money I said it was none of my affair.

Q. You didn't say you wanted to get out of this trouble?

A. I suggested that——

Q. Did you mention anything about the fact that you did not want your mother to know it?

A. No, sir.

Q. Didn't you say that in the conversation in Judge O'Hara's office, in my presence and Barbour's?

123 A. No, sir; I said I would go to my attorney.

Q. Didn't you say you would go right up to Judge O'Hara, but that you had to go up in Ohio, and that you would make arrangements?

A. No, sir.

Q. Didn't you say you would make arrangements to meet Mr. Barbour at Judge O'Hara's office immediately on your return from Ohio?

A. No, sir.

Q. Didn't you say to me that you did not want any action taken until you got back from Ohio?

A. No, sir.

Q. Was that not Saturday evening?

A. Yes, sir.

Q. Didn't you expect to see Judge O'Hara?

A. Yes, sir.

Q. You did not request me to take no action in the matter until you returned?

A. No, sir; I did not.

Q. Did you ever notify me to meet at Judge O'Hara's office?
A. No, sir.
Q. Well, that is the first knowledge you had of it?
A. Yes; when I met you on the train is the first.
Q. You went to Ohio?
A. No, sir; I didn't.
124 Q. Did you tell me you were going to Ohio?
A. That was my intention.
Q. Didn't you request me not to take any action?
A. No, sir.
Q. You did not care whether any action was taken or not?
A. Well, you had your own choice.
Q. You say on the Sunday that this is said to have taken place that you had gentlemen in your room most of the time?
A. Yes; until the dinner hour.
Q. You did not at any time request this young lady to come over there and write cards for you?
A. No, sir. I will say that they wrote postal cards for me three months later.
Q. Well, confine yourself to this occasion.
A. No, sir; nothing at all.
Q. They did not write any cards that day?
A. No, sir.
Q. She was not in your room that day, to your knowledge?
A. No, sir.
Q. Where did you remain after dinner?
A. I think I was at Cunningham's and at the mill in the afternoon.
Q. Why did you want Mr. Barbour to go out and take sketches?
A. I didn't ask him to.
125 Q. You didn't know that he was gone?
A. No, sir.
Q. Now you say that you didn't request Mr. Barbour to go and take sketches?
A. No, sir.
Q. Did you know that he had gone?
A. I understood it when I asked for him.
Q. Who came to see you that day?
A. Some of the neighbors from below—Mr. Nelson.
Q. What had Mr. Nelson to do with you?
A. It was in regard to arranging for farm work.
Q. Well, what about it?
A. It was in reference to that business.
Q. Well, what did he want to see you that day for? What business did you transact with him?
A. Well, I do not remember.
Q. Don't you remember that you didn't transact any business with him?
A. No, sir; I do not.
Q. Well, if you had any business, what was it?

A. Well, we do not make contracts on Sundays; it was just a little matters of conversation.

Q. Didn't you state that he was there on a matter of business? Did he pay you any money? Did you owe him any-
126 thing?

A. No, sir.

Q. Had you any contract with him?

A. Only a verbal renting.

Q. Then do you say that previous to October you had an actual transaction with him?

A. Yes, sir; rented corn ground; he was a farmer.

Q. Was the renting from you previous to that?

A. He had rented early in the spring, and they were then wanting to know something about renting it for wheat.

Q. What other gentleman did you transact any business with that morning that you can recollect the business?

A. Well, Gideon Hughes was there to know what work was to be done.

Q. Now, what time did Gideon come?

A. I think about 10 o'clock in the morning.

Q. Did you have a watch?

A. Yes, sir.

Q. Did you look at the watch?

A. Yes, sir.

Q. What called your attention to it?

A. Well, I thought it was later than it was.

Q. Do you remember and state to the jury that when Gideon
127 Hughes was there that hegot there about 10 o'clock?

A. Yes, sir.

Q. Well, how near to 10 o'clock?

A. Well, it was about ten.

Q. If your attention was specially called to it why don't you remember it?

A. Well, I did not charge my memory with the time.

Q. What was the business he came on?

A. He wanted to know what work was to — on *on* the farm.

Q. Do you remember who was present when he came?

A. I think that he was the first man that came.

Q. Didn't you state to the jury, in your examination-in-chief, that all that morning you had been talking to gentlemen about business?

A. Well, you can call it morning; we did not get breakfast until late.

Q. Now, you say you didn't talk to anybody?

A. I believe that he was the first of the outsiders that came in.

Q. What did he want to know?

A. He came to know about clearing a piece—he had cleared a great deal of ground, and wanted to know if he could do the work?

Q. Had you decided that matter?
128 A. I do not remember whether I had or not.

Q. Then you were going to clear ground?

A. Well, no; he wanted to know what he should do in the fall work.

Q. Do you know what particular work he was to do? Did he agree to do any particular work?

A. No; I think not.

Q. What associates this date with you? Have you any memoranda of any transactions with persons that day?

A. No, sir.

Q. Didn't you take any receipt?

A. No, sir.

Q. Did not pay any money or receive any?

A. No, sir.

Q. Don't you know how long he was there?

A. Yes; he was there until dinner.

Q. You can't tell whether you made a contract or not?

A. Well, we don't make contracts on Sunday.

Q. How long were you there?

A. He was there from about 10 o'clock until dinner time.

Q. Who came in the meanwhile?

A. John R. Wynn and John Barnes, I think, was there.

Q. Then the first gentleman was there from 10 o'clock until you went — dinner?

129 A. Yes, sir; right in the office.

Q. All the time?

A. Yes, sir.

Q. Now, what was Mr. Wynn there for?

A. He was there to know what orders for work in the following week. He was getting logs out at the time.

Q. You say that you had been gone about a week previous to that?

A. Well, I think I had been gone nearly three weeks.

Q. Did you notify any person when you expected to return?

A. No, sir.

Q. When did you get back?

A. I got back the Friday night before.

Q. Did any of those gentlemen know anything about your return?

A. I don't know; they were looking for me.

Q. Did any of them know you were there on Saturday?

A. I was at Cunningham's and they were all there.

Q. You don't know whether they knew that you were at home?

A. No, sir.

Q. Now, you say shortly after that you went to Ohio?

A. We went home on the 13th of October.

Q. When was the election?

A. On the 13th.

Q. On the 13th?

130 A. Yes, sir.

Q. Did you leave home that morning?

A. Yes, sir.

Q. What time did you get to Mingo, in Ohio?

A. I think that same evening?

Q. You say that the election was held on the 13th of October?

A. Yes, sir.
Q. How far was that from Corinth?
A. About 110 miles.
Q. How long did you remain there?
A. I got there the same evening or early the next morning and I returned to Corinth that week.
Q. Do you recollect anything of the writing of postal cards or anything of the kind?
A. Yes, sir; that was about a month before they left, that they wrote the postal cards, and most of that was done in my absence.
Q. Didn't you tell the mother at any time that you wanted the girls to come and address postal cards?
A. Yes; but that was about three months after they moved there.
Q. Well, at the time they speak of?
A. No, sir.
Q. You didn't tell her that you wanted them to draft?
A. No, sir.
131 Q. You didn't take any advantage of that girl in the house?
A. No, sir.
Q. You didn't put your arm around her?
A. No, sir.
Q. You didn't attempt to kiss her or anything of that sort?
A. No, sir.
Q. Did they call you to come to dinner?
A. They came and announced dinner. I don't know whether it was Hattie or Minnie that came.
Q. Now, you say that you did not expect to see them there when you got back home?
A. No, sir.
Q. You didn't agree with those parties to come?
A. No, sir; only merely a proposition, and they did not agree to it.
Q. What did you come and make that proposition to Mr. Barbour — unless you wanted them to come?
A. I made the offer and it was for them to consum-ate it.
Q. Then you say to the jury that Mr. Barbour did not agree?
A. Not at that time. His acquiescence was going there and going to work.
A. Now, I will ask you to state your purpose in having Mr. Barbour come there. Was it not to get Hattie Barbour? You
132 didn't care whether he was there. Was not that your purpose?
A. No, sir.
Q. Did he ever do any sketching after he went out there?
A. Yes, sir; and his women done the housework, the cooking. There was no sketching done that I ever seen.
Q. Did you want him to come & take photographs?
A. Yes, sir.
Q. That is what you wanted him for?

A. Yes, sir.

Q. And yet you came down here and left for Indiana, without closing the contract?

A. Yes, sir.

Q. And were much surprised when you found him there?

A. Certainly; without accepting the offer, I said I was surprised; I said I am surpised to see you here; and he remarked, I hope no harm done.

Q. Where was that at?

A. At Cunningham's. His wife was present and the Barbour family and Sheehee, I think.

Q. Did you have any communication from the time you left home to go from Frankfort until you came upon the train coming back?

A. I think not.

133 Q. Did you have any communication with any of your hands?

A. No. sir.

Q. Did not you know before you got to Corinth that Mr. Barbour had been after me or had been to Cincinnati?

A. No, sir.

Q. Didn't you know that I was on the train before that?

A. No, sir.

Q. You had no communication of that?

A. No, sir.

Q. Didn't Sheehee inform you of the fact? Is not that the reason you did not get off down there?

A. No, sir.

Q. Mr. Sheehee didn't tell you?

A. I got a telegram from Corinth.

Q. Who sent that telegram?

A. I think he did.

Q. What did Mr. Sheehee say?

A. He said there was a racket down there—a fuss.

Q. Didn't you and Mr. Sheehee have a racket down there before you left?

A. No, sir.

Q. Didn't Mr. Sheehee send you a telegram saying there was a racket?

A. Yes, sir.

Q. Have you that telegram?

A. No, sir.

134 Q. And the words that he employed, then, in the telegram to — was what?

A. I do not remember distinctly, but a fuss down there.

Q. He didn't say a racket, then, but a fuss?

A. A racket or a fuss.

Q. Don't you know that he told you in that telegram just what the trouble was?

A. No, sir.

Q. Didn't you know just what it was?

A. No, sir.

Q. Didn't you know that you were accused of being the father of the child and accused of rape on a little girl?

A. No, sir; not until you made it known to me.

Q. Don't you know that — I spoke to you you said you had heard of the trouble?

A. I don't know. You remarked to me that there was trouble, and I said I had heard that there was, and then you told me what it was.

Q. You didn't tell me that you had a telegram?

A. No, sir.

Q. You didn't think it was a proper thing for you to speak of there?

A. No, sir.

Q. Now, was it not a proper thing for you to speak of there? Didn't you try to keep out of the way?

135 A. No, sir.

Q. Where did you get that telegram? Where is it now?

A. I don't know now what became of it.

Q. Where did you get that telegram?

A. At Frankfort.

Q. What was you doing at Frankfort?

A. I was on business and social relations.

Q. Did your mother have an arrangement to visit you?

A. No, sir.

Q. Where did you meet your mother?

A. I met her at Georgetown.

Q. How did you happen to meet her at Georgetown?

A. I don't know. She came to meet me.

Q. Do you know how she knew she would meet you?

A. Some one had told her at the depot.

Q. Do you know whether she knew what was keeping you away from home?

A. No, sir.

Q. Do you say that you were not keeping out of the way of the officers?

A. No, sir; I was not.

Q. And that your mother was informed of it?

A. No, sir.

136 Q. Didn't you know by a previous arrangement between your mother and yourself that she was to come by your home and meet you at Georgetown and there have a conversation?

A. No, sir; she was down before I heard of the racket. She had come to see me.

Q. Then she knew it and had come to see you and saw Sheehee?

A. She did not expect to see Sheehee, that I know of.

Q. Then it was a meeting purely accidental?

A. Yes, sir.

Q. Why didn't you stop there on Saturday?

A. Because ma wanted me to come to Ohio.

Q. Why did she want you to come to Ohio?

A. To attend to some of her business matters.

Q. What was it about?
A. It was about some property—real estate.
Q. Where?
A. It was in Pickaway county.
Q. In Pickaway county?
A. Yes, sir.
Q. What was it?
A. It was a foreclosure of a mortgage.
137 Q. Then, instead of her coming to visit you, you changed the whole programme and went back?
A. Yes, sir.
Q. Do you know what you done with that telegram Sheehee sent you?
A. No, sir.
Q. Did Mr. Sheehee say anything about rape?
A. No, sir.
Q. I wish you would recollect that telegram and tell all of it?
A. I have stated that as near as I can, that there was trouble at the mill. I don't know whether he said trouble or a racket. He said as I passed through the day before that there was a fuss out at the mill. I supposed a knock-down, a little fuss, or something of that sort. I can't keep the run of those things; they have them there all the time.
Q. What time did you leave there?
A. I think it was Saturday or Friday evening.
Q. Do you recollect the day that the warrant was sworn out?
A. The warrant was sworn out on Tuesday, Valentine's day, the 14th of February.
Q. Do you recollect telegraphing to your mother the fact?
A. I do not remember.
138 Q. Did you telegraph to her?
A. I do not remember.
Q. Did you telegraph Sheehee that you were going to stop?
A. I had sent word for the buggy to meet me there.
Q. Now, I will ask you if when you passed there you were not locked up in the water-closet?
A. No, sir. I stepped out on the steps and hollowed to one of the boys to send the buggy back, and I saw Sheehee.
Q. How long was Sheehee there after you went back?
A. Ten days or two weeks.
Q. Do you know what took him away?
A. No, sir; I do not.
Q. Did he work for you? Did you turn him off?
A. No, sir; and no sort of a fuss occurred.
Q. He was a witness at the examining trial, was he not?
A. I think so; yes, sir.
Q. Do you know John T. Harris?
A. I have seen him.
Q. Does he not live by your land?
A. Yes; he lives there.
Q. Has he not been deputy sheriff?

A. Yes, sir.
Q. Do you remember the day you were arrested?
A. Yes, sir.
139 Q. I will ask you if you saw John S. Harris the day before, at Corinth?
A. I don't remember certainly that I did.
Q. I will ask you if you didn't state to him, John S. Harris, the day before you were arrested that this girl was half gone when she came to your house and you could prove it?
A. I don't suppose I did.
Q. Didn't you say so to him on the day before you were arrested, that this Barbour girl was half gone with child before she came to your house and you could prove it?
A. No, sir; I did not.
Q. Didn't state to him that as your defense to this case?
A. No, sir; I did not. He is not a confidant of mine, anyhow.
Q. You left and went to the election in Ohio?
A. Yes, sir.
Q. That was the congressional election?
A. Yes, sir; State election.
Q. What officers were to be voted for?
A. Secretary of state and one or two judges of the supreme court.
Q. You cast your vote on that day at Mingo?
A. Yes, sir.
Q. Now you were back again in November?
A. Yes, sir.
Q. At the Presidential election?
140 A. Yes, sir.
Q. Now, was it not true before the Presidential election that this man Snelling was at your house?
A. They were not there then.
Q. Now, who was there on that day, the Sunday before you went to the November election?
A. The most of those I have named.
Q. Who was there?
A. Well, Gideon Hughes was there.
Q. Well, who else?
A. John Wynn, John Barnes, Snelling, Cunningham, Wiatt, and Anderson.
Q. The same parties you have mentioned?
A. Part of them; yes, sir.
Q. Well, what part were absent in Oct. and there in November?
A. I can't say positively.
Q. Can you name any of them?
A. I can't do it to a certainty.
Q. Can you name one not there?
A. Well, Nelson was not there in October, I think.

Redirect examination:

Q. You spoke of the election being on the 13th of October; what day of the week was it on?

A. Monday.

Q. The State election was held on Monday in Ohio?

141 A. Well, now, I am mistaken on that; the election, I think, is held on Tuesday. I got lost from the men that went with me, and I did not get there until the next day.

Q. You left Corinth on Monday, did you?

A. Yes, sir.

Q. Now, as to Judge O'Hara, Mr. O'Neal has asked you if you stated to him about a lawyer; what did you do?

A. I said I would consult Judge O'Hara.

Q. Did you see him?

A. Yes, sir.

Q. When?

A. Immediately after I left him.

Q. These parties that you have named as being present—they were your tenants?

A. Some of them; Gideon Hughes is not a tenant of mine.

Q. Tenants of employees?

A. Yes, sir.

Q. Did you ever have any conversation with Mr. Harris, this gentleman they have asked you about, at Corinth?

A. I do not recollect it at all.

Q. On the day before you were arrested at Corinth you were asked if you had a conversation with him?

A. I may have spoken to him. I think I did meet him at —— store, and may have said something casual.

142 Q. Was there anything said about this matter?

A. No, sir; I know him too well.

Q. Well, you were friendly?

A. He pretends so. He done everything that he could against me.

Q. How were the windows and doors of this house on that Sunday?

A. They were all open; it was unusually warm weather, and the windows were all open.

Recross-examination:

Q. I will ask you if there were not blinds to two windows of that room, and if they were not drawn down?

A. No, sir. they were not.

And also ——— CUNNINGHAM, being duly sworn, testified on behalf the defendant as follows:

Examined by Mr. CLEARY:

Q. Where do you live?

A. At Eagle Mill.

Q. Were you in the employ of Mr. E. O. Stevenson in 1884?

A. Yes, sir.

Q. In what capacity?

A. Foreman and engineer of his mill.

Q. Any other duties besides foreman and engineer?
A. Well, I am time-keeper of the hands.
Q. Do you keep the names of the hands that work there?
143 A. Yes, sir.
Q. Do you keep any book?
A. I keep his time the same as the others.
Q. Have you that book with you?
A. Yes, sir.
Q. Will you please to look at it?
A. Yes, sir.
Q. Can you state at what time Mr. Stevenson came to your place in Oct., 1884?
A. He came there on the 11th, went away on the 13th, and returned on the 18th.
Q. I will ask you to look and see when Barbour came there.
A. Yes, sir; I put his name upon this book as the 12th of October, that is when he commenced services in the boarding-house, but he was there nearly a week previous, and didn't commence until after Mr. Stevenson's return.
Q. On the Sunday that he commenced services—on the 12th—where were you on that day?
A. Well, I could not tell you whether at the boarding-house or at home. I used to be backwards and forward. I may have been there that day, but I could not say positively.
Q. You could not recollect that?
A. No, sir.
Q. When did Mr. Stevenson leave there after that Sunday?
144 A. He left on the 13th.
Q. And returned on the 18th?
A. Yes, sir.
Q. What day of the week was the 18th?
A. It was Saturday.
Q. Do you know John Barnes?
A. Yes, sir.
Q. Was he around there?
A. Yes, sir.
Q. Was Gideon Hughes?
A. Yes, sir.
Q. John Gier?
A. That is the sawyer.
Q. When did he leave there?
A. John Gier must have left there the 13th also and went to the October election.
Q. When did he return?
A. On the 8th of November—at least, that is the first day that he worked if he came back. This only shows the time that he worked.
Q. Do you know anything about the removal of the goods belonging to the Barbours from that place to Corinth?
A. Yes, sir.
Q. Who moved them?

A. Myself and John Barnes helped load them in the wagon, and I think Gideon Hughes.

Q. How were they moved—in what condition? What care was taken?

145 A. Mr. Stevenson came up and said, Go down and pack them up; told us to be as careful in packing as possible; just the same in handling as in our own goods, and we done so.

Q. Did you exercise care in packing? Was there anything broken?

A. No, sir; there was not.

Q. You saw what was done?

A. Yes, sir; and there was nothing hurt there.

Cross-examination—Mr. O'NEAL:

Q. You have a report of the time that Mr. Stevenson was at the mills?

A. I have all his comings and goings.

Q. You have all his comings and goings?

A. Yes, sir—that is, when he is there and when he is not there.

Q. Do you mean that you note the time that he makes his appearance in the neighborhood or at the mill?

A. At home.

Q. You say that he was there on the 13th; came on the 10th of October. He was there on the 13th?

A. He left the 13th.

Q. And then he was back on the 18th?

A. Yes, sir.

Q. And then how long was he there?

A. Until the 3rd of November.

Q. What kind of weather was it that you loaded up the goods and took them away?

146 A. It was cold weather; in the winter season.

Q. You are not related to either of these parties?

A. I am a second cousin to Mr. Stevenson.

And also GIDEON HUGHES, being duly sworn, testified on behalf of the defendant as follows:

Examined by Mr. CLEARY:

Q. You worked at Stevenson's place, in Grant county?

A. Yes, sir.

Q. Were you there when Barbour came with his family?

A. Yes, sir.

Q. Do you recollect what time they came?

A. It was along in October.

Q. What time in the week, do you know?

A. The last of the week.

Q. Now, on the Sunday after they came where were you?

A. I was at Mr. Stevenson's office.

Q. What time did you go to his office?

A. I was there until—well I reckon it was two o'clock; they

called for dinner and I went over with him to dinner. I didn't go to the dinner, I went over to the dining-room and staid there until dinner was over, and went back to the office.

Q. Was anybody in the office or room with Mr. Stevenson besides yourself?

147 A. I believe that there was one or two in there.

Q. Do you recollect who they were?

A. John Barnes was in there a while and Nick Sheehee was in there a while.

Q. Do you know Miss Hattie Barbour?

A. Yes, sir.

Q. Was she there while you were there?

A. No, sir.

Q. Was Mrs. Barbour there?

A. No, sir.

Q. Did you hear Mrs. Barbour or any of the Barbours say anything to Mr. Stevenson that morning?

A. Nothing at all.

Q. Did you hear Mr. Stevenson say anything to them?

A. No, sir.

Q. What were they doing there that morning?

A. I went up there to see him that morning; he had been away and I wanted to see him.

Q. That was the Sunday after Barbour came there?

A. On Sunday after they came there.

Q. Did you know of Mr. Stevenson being away from there before that Sunday?

A. Yes, sir.

Q. Did you know when he came home?

A. I think it was Saturday evening.

Q. Do you know where he had been?

A. Had been to Ohio; I never asked him.

148 Cross-examination by Mr. O'NEAL:

Q. You testified in the examining trial?

A. Yes, sir.

Q. Do you know when the Presidential election was?

A. Yes, sir.

Q. Mr. Stevenson went to Ohio to vote, did he not, in 1884?

A. Yes, sir.

Q. When was that—what month?

A. That was in November.

Q. He came back on Saturday night and you went to see him Sunday on this business?

A. On Sunday; yes, sir.

Q. What time did you get back?

A. About 11 o'clock.

Q. How long did you stay?

A. I was there pretty much the balance of the day.

Q. That day you didnit see Mrs. Barbour?

A. I saw her at the house as I passed by.

Q. You did not see her over there?
A. I don't believe that I did.
Q. Well, this day you staid in the house and talked with Mr. Stevenson?
A. Yes, sir.
Q. Well, that is what you testified in the examination of the court below, was it not, and you still testify to the same thing?
A. Yes, sir.
149 Q. You are positive about the time, are you?
A. Yes, sir.

Redirect examination:

Q. What was it you testified to in the examining trial when Mr. Stevenson returned before the November election? How long had the Barbours been there?
A. Been there about three days, I think.
Q. The time that you were in the room of Mr. Stevenson--the office—how long was that after the Barbours came there?
A. Well, I should say about two or three days.
Q. Now, was that the November election or the October election?
A. It was the October election.
Q. He also went to Ohio to the November election?
A. Yes, sir.
Q. When he come from the November election how long had the Barbours been there?
A. I do not recollect exactly how long they had been there; a little over a week.
Q. From the October election to the November election, a little over a week. Is that your statement?
A. You mean when he came back?
150 Q. The first time you speak of. Then you spoke of the November election. Now how long from the October to the November election, if you recollect?
A. Well, I do not recollect exactly.

And also JOHN BARNES, being duly sworn, testified on behalf of the defendant as follows:

Examined by Mr. CLEARY:

Q. Did you work at Stevenson's in October, 1884?
A. Yes, sir.
Q. What was your business?
A. Hauling logs; teaming.
Q. Do you recollect when the Barbour family came there?
A. Yes, sir.
Q. What time in the year was it?
A. I don't recollect what month it was. I remember that I was then teaming when he came there.
Q. Was Mr. Stevenson there at that time?
A. Yes, sir.
Q. Do you recollect of his coming home?

A. No, sir; I wasn't there when he came home.
Q. Where were you on Sunday after the Barbours came there?
A. I was at home.
Q. Do you know these girls?
A. Yes, sir.
Q. Did you ever see them visiting there?
151 A. Not particularly, only going from the mill or to Cunningham's and down to Corinth.
Q. You saw them going out to Cunningham's and up to Corinth?
A. Yes, sir.
Q. How often did you see them?
A. I could not tell you exactly.
Q. Any person with them?
A. A time or two I saw them going to Corinth and a young gentleman that worked there.
Q. Who was the gentleman?
A. Nick Sheehee.
Q. How did they go?
A. In a buggy.
Q. Which one of the girls?
A. The youngest one, that I recollect of.
Q. How often?
A. One time, that I recollect of.
Q. Did you haul the goods and things to Corinth?
A. Yes, sir.
Q. How were they packed?
A. We packed them as good as we could.
Q. Anything broken or torn?
A. No, sir; not at all.

Cross-examination by Mr. O'NEAL:

Q. You say you saw this young man Sheehee, this clerk or agent of Stevenson's, driving one evening to Corinth with this young lady?
A. Yes, sir; I was there when they started.
152 Q. Is that all you know about the young lady?
A. Yes, sir.
Q. Did you see any act of impropriety?
A. No, sir.
Q. Any immodest conduct in any way?
A. Just the same as youngsters usually do.
Q. You were not at Stevenson's—did not see these people come back from Corinth?
A. I didn't exactly see them come.
Q. It is turnpike road to Corinth?
A. Yes; a pike.
Q. What time did they leave?
A. In the evening.
Q. Do you mean in the afternoon?
A. In the afternoon.

Q. And they came back in the afternoon?
A. Yes, sir.

And also JOHN GUY, being duly sworn, testified on behalf of the defendant as follows:

Examined by Mr. CLEARY:

Q. Your name is John Guy?
A. Yes, sir.
Q. Where do you live?
A. I live at Corinth.
Q. Where is your home?
A. At Mingo, Ohio.
Q. Did you work for Edward Stevenson in October, 1884?
153 A. Yes, sir.
Q. Did you recollect of going to Ohio in October, 1884, for any purpose?
A. Yes, sir.
Q. For what purpose?
A. The State election.
Q. When was that, do you recollect?
A. It was in October, 1884.
Q. Who went with you?
A. Mr. Stevenson went as far as Cincinnati with me.
Q. Did you see him up there after that?
A. No, sir; not at that time.
Q. When did you see him?
A. I saw him at the Presidential election.
Q. You staid, then, up there until after the Presidential election?
A. Yes, sir.
Q. Do you know the Barbours, this gentleman and his family, who bring this suit?
A. Yes, sir.
Q. Do you know when they came out to Mr. Stevenson's?
A. I don't know exactly, but about the 6th of October.
Q. With reference to the time you went to Ohio, did you go the next week or was it longer?
A. I went the next week.
154 Q. What time did you start from Corinth?
A. On the 13th of October, on Monday.
Q. The Barbours had been there about a week then?
A. Yes, sir.
Q. Were you on the place that Sunday after the Barbours came there?
A. Yes, sir.
Q. Where were you that day?
A. I was up at the boarding-house.
Q. Was that where Mrs. Barbour was employed in getting dinner?
A. Yes, sir.
Q. Were you over at Mr. Stevenson's office that day?

A. Well, I was around there. I don't know, but I did not call there.

Q. What was your business there?

A. I was performing different duties, as I am the sawyer.

Q. Do you recollect whether on that Sunday many of the hands were around there?

A. There were several there, but I can't recollect just who.

Q. Were they there in the morning or in the afternoon?

A. Well, they generally came in there and staid around; some played on the piano, and so on.

Q. Who played on the piano?

A. Mr. Sheehee.

Q. Where was the piano?

155 A. In the boarding-house.

Q. Did he play the guitar and sing?

A. Well, they had a violin.

Q. Who was there a musician besides Mr. Sheehee?

A. Well, I played a little myself.

Q. That is the way you passed your Sundays?

A. Yes, sir.

Q. Do you recollect passing this particular Sunday that way?

A. Yes, sir.

Q. How far is the boarding-house from this office?

A. About sixty or seventy feet.

Q. That sitting-room that you speak of was where—at the boarding-house or up at Stevenson's office?

A. At the boarding-house.

Q. Did you ever see these young ladies in the sitting-room?

A. Yes, sir; in there.

Q. Did they play music themselves?

A. Yes; a little, sometimes.

Q. That was a kind of sitting-room was it?

A. Yes, sir.

Cross-examination by Mr. O'NEAL:

Q. You say you do not recollect whether you were at the office that day or not?

A. I can't say.

Q. Well, do you know of anybody up there?

156 A. Mr. Hughes was there.

Q. What time did Hughes come?

A. Well I could not say—Mr. Henry Snelling.

Q. You mean they were around?

A. They were in the office. I do not remember of being in the office.

Q. Who was singing and playing on the piano with yourself?

A. Well, the whole crowd in the boarding-house.

Q. You don't remember that you were at the other house at all?

A. No, sir.

Q. All you know is that other parties were about the grounds?

A. Well, they were in the office.
Q. How do you know, if you were not in the office?
A. I could see them.
Q. Could you see in the bed-room?
A. I could see through the door.
Q. Who did you see there?
A. Henry Snelling and John Barnes.
Q. Didn't you just say you could not remember who it was? Was Barnes there all the time?
A. I could not say.
Q. Do you not remember having talked with any particular person on that day upon any subject?
A. Well, I don't know.
157 Q. Is there any circumstances of your life in which you were interested that fixes that day in your mind?
A. Well, I know we changed cooks that day. We had a colored cook before Mrs. Barbour took her place.
Q. That all you remember?
A. Yes, sir; that is the first day she took it.
Q. Is that the circumstance that enables you to remember any other matter, the mere fact that some one else cooked your dinner?
A. Yes, sir.
Q. Do you recollect that you and Mr. Stevenson came over to Ohio the next day?
A. Yes, sir.
Q. And that is the last you saw of him?
A. Yes, sir.
Q. Where did you vote?
A. At Mingo.
Q. You saw nothing of Mr. Stevenson after you left Cincinnati until you saw him there in November?
A. That is all.

And also JOHN WYNN, being duly sworn, testified on behalf of the defendant as follows:

Examined by Mr. CLEARY:

Q. Did you work at Stevenson's, in Grant county, in 1884?
158 A. Yes, sir.
Q. Do you recollect when the Barbour family came there?
A. No, sir; not exactly.
Q. Do you recollect about the time that they came there?
A. No, sir; I do not.
Q. Who was Stevenson's cook before the Barbours came there? Do you know?
A. I don't know as I do.
Q. You do not remember who was there?
A. No, sir; I do not.
Q. Do you recollect taking dinner there at any time?
A. No, sir.

Q. Do you recollect being over there at any time when Mr. Stevenson was in his office, just after his return?

A. Yes; I was there pretty near every time.

Q. Do you recollect Stevenson's coming to Ohio to vote?

A. Yes, sir.

Q. Now, the Sunday before he went away, were you there?

A. Yes; I was there in his office a part of the time during that day.

Q. When were you in his office?

A. I was in there two or three times.

Q. What time in the day?

A. Well, it was between ten and one o'clock.

Q. Who did you see there?

159 A. I saw Mr. Hughes there. I don't remember who else.

Q. Were any of the hands about the place?

A. Yes; several there when I went.

Q. About how many people were around there that day—that morning?

A. I could not tell; they were passing in and out.

Q. Did you eat dinner there that day?

A. No, sir.

Q. Do you know these Miss Barbours?

A. I knew them when they came there; not well acquainted with them.

Q. Did you ever see them visit about the neighborhood there—any of them?

A. No, sir.

Cross-examination by Mr. De Jahnet:

Q. You were there on the Sunday before he came over to the election?

A. Yes, sir.

Q. You do not know whether it was a State or Presidential election?

A. It was a State election. I heard them talking about the election before they went.

Q. You were examined as a witness at Corinth, were you not?

A. Yes, sir.

Q. You did not make such a statement. Didn't you state it was the Presidential election?

160 A. No, sir; I did not say anything about the November election.

Q. What fixes it as that election?

A. Well, I heard them talking about it.

Q. Talking about what?

A. What they were talking about in particular was about who should go.

Q. Did you understand what officers they were to vote for?

A. No, sir; but I heard them talking about it.

Q. Who did you hear talking about it?

A. I heard Mr. Stevenson and two or three others talking.
Q. Who was talking about it beside Mr. Stevenson?
A. Mr. Hughes.
Q. Do you remember any business you transacted?
A. No, sir; I didn't go to transact business.
Q. Did you get dinner there?
A. No, sir.
Q. Did you go before dinner or afterwards?
A. I was there before dinner; I went there about ten o'clock.
Q. What occurred while you were there?
A. I could not tell what all occurred. Nothing in particular.
Q. What time did you leave?
A. Some time between twelve and one o'clock.
161 Q. Was you in the house just before you left?
A. Well, I don't know as I was.
Q. Do you remember anything that transpired?
A. Nothing, unless they were talking about the election.
Q. Do you remember what any of these were talking about?
A. No, sir.
Q. Well, do you remember what day it was?
A. Well, the 12th day of October. Mr. Stevenson was security upon a note for me, I recollect that.
Q. Did you make a memoranda upon the note?
A. Yes, sir,
Q. What sort of a memoranda have you on that note?
A. I don't know; I was thinking about renewing the note.
Q. Who was that note to?
A. Mr. Henry.
Q. You came over to see Mr. Stevenson about it; he was your security?
A. Yes, sir.
Q. You have not that note with you?
A. No, sir; I have not got the note at all.
Q. Do you know George Trimmel, a merchant at Corinth?
A. Yes, sir.
Q. After the examining trial did you have a conversation
162 with him about this matter?
A. No, sir.
Q. You did not tell him that it was in November, then, a day or two after that trial?
A. I did not tell him anything about it.

An- also Mrs. E. J. STEVENSON, being duly sworn, testified on behalf of the defendant as follows:

Examined by Mr. CLEARY:

Q. Edward O. Stevenson is your son?
A. Yes, sir.
Q. Where do you reside?
A. Mingo, Champaign county, Ohio.

Q. Do you recollect of meeting your son some time about the 1st of February, 1885, at Georgetown?

A. I met him on the train as I was coming up; he got upon the train.

Q. Well, had you gone to Corinth to visit?

A. I went to Corinth to get off, but learned that he was not there.

Q. Did you learn where he was?

A. When he got on he was on his way to Frankfort or Georgetown; he was after boats.

Q. Where did you go with him from that place?

A. He returned; he was going to Chillicothe.

163 Q. How did he happen to return?

A. He happened to return and I asked him to attend to some business.

Q. What I want to know is, why he returned.

A. We went up there and then we were to come back past Corinth.

Q. Was it his purpose to stop at Corinth?

A. No; he was on his way to Chillicothe, and I know that I was exceedingly anxious that he should go to attend to some business.

Q. Had you heard from any person about any trouble against your son?

A. No, sir.

Q. Do you recollect when you got to Corinth what he did?

A. I think he hollowed to some one if he had any mail, and we went right on to Chillicothe. I asked him to go, and he was going to Chillicothe. I think he asked for mail, but I am not positive about that.

Q. Do you know Col. O'Neal?

A. No, sir; I don't. I have seen him.

Q. Do you know whether he was on that train?

A. He got on at Corinth or this side.

Q. Do you know of any conversation between your son and Col. O'Neal?

A. Yes, sir.

Q. Did your son tell you?

A. Yes, sir.

164 Q. What did you do?

A. We came to Covington and went to see Judge O'Hara.

Q. Did you have any conversation with Judge O'Hara?

A. Yes, sir.

Q. Had you in any way known of your son being in trouble up to that time?

A. No, sir; I never heard anything about it.

Q. Where were you at the time of the October election, in October, 1884?

A. I was at Mingo.

Q. Do you know where your son was?

A. He came there and voted.

Q. You know that he was in Mingo that day?

A. Yes, sir.

Q. Where did he go?

A. He wanted to buy tug-boats. I know that he was buying boats, and I didn't want him to buy.

Q. Mrs. Stevenson, on that Saturday night you came down to consult Judge O'Hara, where did you go to from there—you and your son?

A. Went back to Corinth.

Q. What happened when you went back to Corinth?

A. You mean why did we turn around?

Q. Yes, madam.

165 A. We went back to have these people put out of the house.

Q. Were you present?

A. Yes, sir.

Q. What happened at that time?

A. Edward had sent out to the mill, and when buggy came in Edward said, We want to have some witnesses present; and he went in Mr. Trimble's office, and Mr. Barbour soon after that came to the gallery, so that we went over there. I went with him. Mr. Trimble would not go. I walked into the gallery. Mr. Barbour offered his hand to Edward, and then came forward to shake hands with me. I said, No, sir. He then turned to Mr. Stevenson and said, Mr. Stevenson, you have been my best friend, and I have waited to see you. I wanted to know what you have to say about this matter of my daughter. Edward said, I have nothing to say about it. He says, I have regarded you as my best friend, and you have done more for me than anybody else.

Q. What was said about notice to leave?

A. Well, I was just going to tell you. Then Edward told him immediately that he had no use for his services, and anything that belonged to him to take away, and they divided their interest

166 in the photographing stock, and he said that he would move immediately.

Q. Any time agreed upon as to there going out?

A. Immediately; he said he would take his family right out.

Q. Were you present at the examining trial held of this case in Corinth?

A. Yes, sir.

Q. Do you recollect the testimony of Mrs. Barbour upon that occasion?

A. I think I do; the principal part.

Q. Did Mrs. Barbour say anything upon that trial—if so, what—as to any suspicion she had of your son or his conduct?

A. She said she had none.

Q. Did she say anything about his conduct?

A. She said, I felt safe, as he did not pay any attention to the girls. I did not finish my conversation in the gallery.

Q. Well, all I want to know was about the notice.

A. Well, that is all.

Q. Do you recollect of hearing the girl's statement on the examining trial?

A. Yes, sir.
Q. Did you hear her speak of the second outrage upon her person?
A. Yes, sir.
167 Q. Where was it, did she say, that it occurred?
A. She said it was a day or two afterwards.

And also JAMES O'HARA, being duly sworn, testified on behalf of the defendant as follows:

Examined by Mr. CLEARY:

Q. I desire to ask you if Mr. Edward O. Stevenson and mother consulted you on the Saturday in February, 1885, with reference to some charge pending against him in Grant county?
A. Yes, sir.
Q. Whereabouts?
A. At my house.
Q. I want you to state what advice you gave to Mr. Stevenson with regard to his conduct, so far as Barbours were concerned?
A. I advised him that I thought it was a proper thing for him to do; instead of continuing his trip to Ohio, to go back to Corinth and meet the charge preferred against him, and to remove Mr. Barbours and family out of his house; that it was not proper to allow them to remain in his house while carrying on such a prosecution against him—that of rape.
168 Q. Do you know anything about the actual removal of the things?
A. Mr. Stevenson engaged me to attend. When the prosecution was set upon foot it had not then been commenced. He engaged me to go to Corinth at the examining trial. I went there upon a telegram received Tuesday evening, after the train had left Cincinnati. I went the next morning. The telegram requested me that evening. The next morning I went and found that he was nominally under arrest. The officer having the warrant allowed him to go about town. Upon learning that Barbour had not removed his family and goods from Mr. Stevenson's I advised Mr. Stevenson that inasmuch as Mr. Barbour had not tenancy in his house that he had the right at any time to remove him; that he should send his wagon and hands and remove Barbour's goods to Corinth or whereever he might desire to receive them. That was done. The wagon had been brought in the night before and had been drawn up near the depot, as I understood, to a warehouse there, and the depot master declined to receive them in his ware-rooms, and they were kept in the wagon until morning, when he received the goods. I directed the
169 driver in charge to take the keys of the trunks and boxes and deliver them to Mr. Barbour. Mr. Barbour declined to receive them. I told him if he did decline to receive them to lay them down near his feet. That all occurred before the examining trial. There was two or three days' delay on account of the inability of the parties to get a second magistrate, as there was only one in Corinth.
Q. Were you present at the examining trial?
A. I was.

Q. Did you hear the statement of Mrs. Barbour with reference to whether she noticed anything suspicious in the conduct of Mr. Stevenson after going to that place?

A. Yes, sir.

Q. What did she say?

A. She said she saw nothing and never thought of such a thing.

Q. Now, as to the testimony of the girl herself, what did she say with reference to the second time?

A. She said that occurred about the middle of the week following the first occurrence—two or three days or about the middle of the week.

Q. Did you have any conversation with Col. O'Neal on the subject?

170 A. I did, the Monday previous to the arrest.

Q. Did he profess to represent these parties?

A. Yes, sir.

Q. Did he make any proposition to you?

Mr. DE JAHNET: I object to it as incompetent.

Cross-examination by Mr. DE JAHNET:

Q. The young lady did not name the day?

A. Two or three days or about the middle of the week.

Q. She did not name the day?

A. I don't think she did name the day, further than that.

Mr. CLEARY: The defendant rests.

And also WEDEN O'NEAL, being duly sworn on behalf of the plaintiff, testified in rebuttal as follows:

Examined by Mr. DE JAHNET:

Q. You know J. Q. Barbour?

A. Yes, sir.

Q. Did you know him here in Covington?

A. Yes, sir; for twenty-odd years. He was a member of my regiment in the war.

Q. Did he come to consult with you about his trouble with his family?

A. Yes, sir; he did, sir.

171 Q. Did you go out with him?

A. No, sir; I think he came on Friday and requested I should come out on Saturday. I think it was Saturday I went out.

Q. You heard his case and talked with his family and ascertained the fact-?

A. Yes; I went to his house and saw her mother and sister, and also Miss Barbour.

Q. I will ask you if Mr. Barbour authorized you in any way to make any compromise or agreement in this matter.

A. In no way, manner, or form.

Q. Did you tell Stevenson any such thing?

A. Nothing like that. I can't state what I said.

Q. I simply want to know if J. Q. Barbour authorized you or consented to make any compromise in any shape.

A. I had no authority to make any compromise. I desired that the matter should be adjusted in some way. His wife was in great distress—about as much as one could witness. When I met Mr. Stevenson and talked about it he expressed a desire that the matter might be adjusted without a lawsuit.

172 Q. Well, didn't you tell him that Barbour wanted money?

A. No, sir; never. I don't think that money was named. Mr. Stevenson said that Judge O'Hara was his attorney and I was acquainted with him, and I told him that he had excellent counsel, and I proposed for him to see Judge O'Hara and talk with him about it and make a statement and have a meeting at Judge O'Hara's office. He said that he wanted to go to —— or wherever it was, but he would see Judge O'Hara and make arrangements to have a meeting in confidence and discuss the matter.

Q. That you did upon your own motion?

A. Yes, sir.

Q. And without Barbour's knowledge that you were doing it?

A. Yes, sir.

And also JOHN S. HARRIS, being duly sworn, testified on behalf of the plaintiff in rebuttal as follows:

Examined by Mr. DE JAHNET:

Q. Do you know E. O. Stevenson?

A. I do.

Q. How far do you live from his place out there?

A. His farm and mine adjoins.

Q. How long have you known him?

173 A. Several years.

Q. Do you remember the day of his arrest?

A. Well, I remember the occasion.

Q. Did you have the writ?

A. No, sir.

Q. Were you deputy sheriff at that time?

A. Yes, sir.

Q. You remember the circumstances of the arrest?

A. Yes, sir.

Q. Did you have a conversation with him on the day before his arrest?

A. Either the day after his arrest or the day before.

Q. Before his arrest?

A. Yes, sir.

Q. Now, I will ask you to tell what he said about this girl's condition, if anything he said to you about it?

A. He made the remark to me, I suppose there will be some papers here for you for my arrest. I am charged with raping Barbour's daughter. He says she was half gone when she came here; said he could show that fact by all the women in the neighborhood.

Q. What was it?

A. He said there would be some papers for him, and that he could show that she was half gone by all the old women in the neighborhood.

174 Q. That she was half gone when she came out there?

A. Yes, sir.

Q. How long have you been a citizen of that section, Mr. Harris?

A. I moved there in 1871, I think.

Q. You live in the city of Corinth?

A. Yes, sir.

Q. You have been a public officer there for how long?

A. Seven years, I think, I have served.

Q. You have a general acquaintance in that county?

A. Yes, sir.

Q. Do you know Gideon Hughes?

A. Yes, sir.

Q. How long have you known Gideon Hughes?

A. Ever since before I went there.

Q. Do you know the people with whom he associates?

A. Yes; very well.

Q. Do you know what his reputation is for truth and veracity among men?

A. Not good.

Q. You knew it; you say it is not good?

A. Yes, sir.

Q. Knowing his reputation as you do, would you believe him on oath?

A. I would not.

Cross-examination by Mr. CLEARY:

Q. You are unfriendly with Mr. Stevenson?

175 A. No, sir; not at all.

Q. Had any lawsuits?

A. Yes; he sued me once; a case in court.

Q. You spoke of Hughes' reputation for truth and veracity in the neighborhood. Are you friendly with him?

A. Perfectly.

Q. How did you happen to know of his reputation for truth and veracity?

A. Well, persons speak of him as a liar.

Q. When did you hear his reputation discussed?

A. For the last five or six years; more particularly since this case of Stevenson's came up.

Q. I will ask you if, before this case came up, if you heard his reputation discussed in that particular?

A. Yes, sir.

Q. Well, now, state the occasion of that—when and where.

A. Well, I would hear it around from men that were electioneering.

Q. Well, what was it?

A. Well, any of these election men have told me he would not do to trust; he was not good.

Q. You based your opinion about him from that?
A. Well, that is what others told me.

176 And also Dr. FRANK DOUGHERTY, being duly sworn, testified on behalf of the plaintiff in rebuttal as follows:

Examined by Mr. DE JAHNET:

Q. Doctor, how old are you?
A. Fifty-two.
Q. What is your business?
A. I practice medicine, farm some, and have a drug store.
Q. How long have you been in Corinth?
A. I moved there in 1874.
Q. Have you a general acquaintance in that neighborhood?
A. Yes, sir.
Q. Do you know Gideon Hughes?
A. Yes, sir.
Q. How long have you known Gideon?
A. Well, twenty-five years, I reckon.
Q. Do you know his reputation for truth and veracity in that county?
A. Yes, sir.
Q. What is it, good or bad?
A. It is bad.
Q. Knowing his reputation, about what it is, would you believe him on oath?
A. No, sir; I don't think I would.

Cross-examination by Mr. CLEARY:

Q. Have you heard his reputation discussed?
A. Yes; frequently.
Q. Before this case arose?
177 A. Never heard much said about it before.
Q. It was discussed in reference to this case?
A. Yes; in reference to what he said at the trial.
Q. You have heard persons state that they did not believe that?
A. Yes, sir.
Q. And upon that you based your opinion that you would not believe him under oath?
A. Well, I have heard a great many persons say so.
Q. Yes; but it was in reference to this matter?
A. Yes; more particularly.
Q. Well, you say, outside of that, you do not recollect any other occasion?
A. No, sir.

And also A. W. LANCASTER, being duly sworn, testified on behalf of the plaintiff in rebuttal as follows:

Examined by Mr. DE JAHNET:

Q. Where do you live?
A. Near Corinth, in Grant county.

Q. You live on what is called the Corinth and Columbus road?
A. Yes, sir.
Q. How far from the camp ground of E. O. Stevenson?
A. Well, I do not know how far.
178 Q. How long have you lived there?
A. I have lived there eight years.
Q. Do you know Gideon Hughes?
A. Yes, sir.
Q. Do you know what his reputation for truth and veracity is in the neighborhood?
A. Yes, sir:
Q. Do you know what people generally say with reference to his truth and veracity?
A. Yes, sir.
Q. Is it good or bad?
A. It is not very good.
Q. Knowing his reputation, would you or not—I will ask you whether you would believe him or not?
A. Not when he was interested.
Q. You could not tell very well whether he was interested or not, could you?
A. No, sir.

Cross-examination by Mr. CLEARY:

Q. Are you friendly with these parties, the Stevensons?
A. Well, yes, sir.
Q. You had a lawsuit with them last *last* week?
A. Yes, sir.
Q. Gideon Hughes testified in that suit against you?
A. Yes, sir.
179 Q. Did you make any complaint of his testimony then?
A. No, sir.
Q. When have you heard his reputation for truth and veracity questioned?
A. Well, for the last twelve or fifteen years.
Q. Where did you live before you came into that county?
A. In Scott county.
Q. Did he live in Scott county?
A. Yes, sir.
Q. His reputation has been bad for twelve or fifteen years?
A. Well, yes.

And also THOMAS TRIMNAL, being duly sworn, testified on behalf of the plaintiff in rebuttal as follows:

Examined by Mr. DE JARNETT:

Q. You live in Corinth?
A. Yes, sir.
Q. You are the son of George Tremnal?
A. Yes, sir.
Q. Do you know John W. Wynn?

A. Yes, sir.

Q. I will ask you if you had a conversation at your father's store or at any place at Corinth with this man Wynn, as to whether he was or not at Stevenson's or in the neighborhood on Sunday, the 12th of October.

180 A. Well, I had a conversation with Mr. Wynn in the store. I can't say—but within a day or two of the examination trial—but he did not tell me whether he was there in October or not. He said that he knew nothing of the case at all.

Q. You don't remember whether he said that he was there in October or not?

A. No, sir.

Q. You asked him if he knew anything about the case?

A. Well, I do not know whether I asked him or not; he said that he knew nothing about the case.

Mr. CLEARY. That ought to be excluded.

The COURT. It is not contradictory.

And thereupon the plaintiffs rested *their* case; and, there being no other or further testimony or evidence offered by either party, thereupon counsel argued the cause to the jury.

And the court charged the jury as follows:

GENTLEMEN OF THE JURY: The distingu-shed counsel having discharged their duty to their respective clients in this case, it now devolves upon the court and jury to perform their duties in

181 the premises. The case, from its very nature and character, touches our sensibilities and appeals to our sympathies in the very strongest manner; but we must not allow sympathies or prejudicies in favor of or against either side to stand in the way of first ascertaining a- determining the material facts on which the rights of these parties depend. You must not allow your sympathy or prejudice to run away with you or to disregard the evidence.

Your sworn duty is to decide this case on the evidence under the law applicable to the questions involved, as the court shall charge you, with such comment as to the *the* facts as the court may legitimately make.

Now, gentlemen, on entering upon your investigation of the case, when you retire to consider your verdict you should first carefully review and weigh the whole evidence as to the material facts upon which the rights of these parties depend, without bias, prejudice, or sympathy.

It devolves upon the plaintiff to establish to your satisfaction two facts, in order that he may recover: First, that the person seduced was his servant; and, secondly, that the seduction was accom-

182 plished as matter of fact by the defendant. You will have no difficulty with the first branch of the case, it having been shown that the daughter in this case was in the family of the father; was under his control, and was under age, or a minor. The law presumes the relation of servant—that is, that the plaintiff had a right to her services, and that for the wrongful act of seducing her,

whereby loss of her service resulted, he may recover. The old idea or theory was that the parent recovered only for the loss of service, together with such actual expense as he may have been subjected to in and about the daughter's confinement; but it may be said, to the credit of modern jurisprudence, that the law has advanced far beyond this relic of barbarism, and that now the damage resulting from such an injury is not confined to the loss of service and attendant expense, but reaches far beyond and claims to give compensation to the wounded feelings of the plaintiff. According to the modern rule, the plaintiff goes through the form of showing that he was entitled to the daughter's service in order to reach the highest plane of injury and wrong for which he is entitled to compensation.

183 The first element of the case to be established by plaintiff, viz., that the seduced person was his servant, is not controverted by the defense, is fully shown by the undisputed evidence introduced, and you may therefore consider that portion of the case out of the way.

The controverted issue in the case turns upon the question whether as a matter of fact the defendant was the person who seduced or debauched the plaintiff's daughter and was the father of the child of which she was delivered.

That is the all-important fact to be determined by you. You need not concern or bother yourselves as to how the defendant may have accomplished the act (if he did it) or the precise hour of the day or the exact place at which he did it.

The question is, does the proof show to your satisfaction that the defendant was the father of the child the plaintiff's daughter gave birth to. That is the controverted issue and question of fact. Now, when you retire to consider and determine that material and vital fact, which you must determine for yourselves (as the court can only aid you by some general rules relating to evidence), you must

184 understand and bear in mind this leading proposition, that the plaintiff holds the affirmative of the issue, or what is called the burden of proof rests upon him, the defendant having denied the charge. The plaintiff must satisfy you by what is *is* called a preponderance of proof that the wrong complained of was committed by the defendant.

By the preponderance of proof the court does not mean the largest number of witnesses on a given point. Four or five witnesses may testify to a fact and a single witness may testify to the contrary, but under such circumstances or in such a manner and with such an air and appearance of truth and candor as to make it the most satisfactory or convincing to you that the one witness with the opportunity of knowing the facts testified to has told the truth of the matter. When you are then satisfied that the truth lies with a single witness or any other number, you are justified in returning a verdict in accordance therewith.

This is what is meant by a preponderance of proof. It is that character or measure of evidence which carries conviction to your minds.

You must be satisfied, gentlemen of the jury, from the
185 whole evidence that the defendant had carnal knowledge of the plaintiff's daughter, and as a result of that connection a child was born to her.

You are met in the very outset of your investigations with these unfortunate conflicts in the evidence which generally arise in cases of this character.

As sensible men, you, as well as the lawyers, know that the fact of illicit intercourse or connection can rarely be established by direct or positive evidence of eye-witnesses to the overt act. Positive testimony, aside from the parties to the act, is not to be expected. The seduced person is a competent witness, and the plaintiff had the right to call his daughter as a witness.

It would have been the subject of grave comment for him not to have called her and given you an opportunity of hearing her statement of the matter. The defendant in his own way and manner has positively denied her statement.

You cannot reconcile the testimony of these two witnesses, but must determine for yourselves, in connection with all the evidence, which you will believe. There are other conflicts in the evi-
186 dence bearing upon the main facts which you should endeavor to reconcile and harmonize, if you can.

The court can only give you a few general rules as guides for weighing and deciding between testimony that cannot be reconciled. Where there is irreconcilable conflict in their statements you can look to the intelligence of the witnesses, to their interests in the suit or its result, to their relationship to the parties.

A witness may be strongly — by his or her relation to the litigants, and you should consider how far, if at all, such relationship has biased, controlled, or influenced such witness or witnesses in his or her testimony. You can also take into consideration the fact that the witness may be friendly to one side and hostile to the other. You can also look to the manner and bearing of the witness in testifying. Does the witness show zeal in stating facts favorable to one side and a reluctance in disclosing facts which would benefit the other?

Does he testify in that frank, candid, and straightforward way which a witness should do under the solemnity of an oath or does he evade and equivocate?

A witness may state facts reluctantly and yet satisfy you that he or she is telling the truth. In the present case the young
187 girl alleged to have been seduced might hesitate or be reluctant to detail all the particulars connected with or relating to the sexual intercourse.

She is not — be immodest in order to be worthy of belief.

You may look to the circumstances surrounding the witness and the way he or she testifies in weighing *in weighing* their evidence. You may also look to their means of information and their opportunity of knowing the facts whereof they testify. You should look to the consistency of this testimony. Is the statement of the witness consistent with itself? Is he consistent with himself or does he con-

tradict himself? Is he consistent with undisputed or well-established facts about which you have no doubt? Is he corroborated or contradicted by other witnesses who you are satisfied has told the truth?

Now, gentlemen, take these general rules or guides with you in every-day experience and apply them to the testimony given before you and determine on which side of this case the truth lies.

You are not permitted as a juror to go out of the jury-box and tell your associates what you may or might know about the
188 matter in controversy, if anything, not having been placed upon the witness stand and subjected to cross-examination, which is the safest method known to the law of ascertaining the truth.

But, while that is so, you may apply your experience in weighing and considering the statements made by witnesses and in determining which side of conflicting and contradictory evidence but harmonizes with such experience and the probability of truth, and, having thus satisfied yourself, your duty will be to decide accordingly.

Do not loose sight of the real issue, which is, Was the defendant the father of the child which the plaintiff's daughter gave birth to on the 10th day of July, 1885? As I have already stated, the plaintiff had the right to put his daughter on the witness stand to state the transaction as she alleges it occurred. She has done this, and you not only heard her evidence, but have seen her manner of testifying, and it is for you now to test and determine the truth of her statement.

The defendant has also been put upon the stand, and positively contradicts every material statement made by her. You have seen his manner and bearing. Both testified under the solemnity
189 of an oath, and one or the other has sworn falsely. It is for you to determine which has told the truth. In the issue that is presented here the general character of the plaintiff's daughter for chastity is involved. The defense had the right to attack her general character for chastity, and to have broken down in that way any probability that defendant was the father of her child, even if he had had intercourse with her; but they have not done so—that is, no attack has been made upon her general character for chastity—and the court instructs you that you should allow no suspicion to cross your mind that she had previous intercourse with any other man who was the father of her child. It may be that I am stating that too strong, and I withdraw that statement or instruction. What I mean is that, not having attacked her general character for chastity, you cannot infer that she was an improper or an unchaste woman or girl previous to the time she was begotten with child. You cannot infer that the child of which she was delivered was the child of the man Sheehee, who has been referred to during the progress of the trial.

190 So let that go. You have no evidence in the case to lead you off on such a trail as that.

For the plaintiff it is insisted that the daughter's testimony is cor-

roborated in all essential particulars by the evidence of her mother and by the testimony of her sister.

The contention for the defense is that his denial of the seduction is corroborated by the fact as (claimed) that there were people in and about his office on the 12th October, 1884, at or about the time when it is claimed that the act of seduction occurred; that there were people in his office, and his office room was so exposed to and surrounded by visitors that it was improbable that the transaction took place as stated.

There are some facts and circumstances about which there is no controversy. The girl did have a child on the 10th July, 1885. In the ordinary period of gestation that child was begotten on about the 10th or 12th or middle of October, 1884. The child was begotten about the time stated by the plaintiff's daughter.

It does not appear that the child was born prematurely, nor is it shown to have been different from the ordinary period of birth It is a fact that the girl was on the premises the day of alleged
191 seduction. It is a fact unquestioned that the defendant was on the premises that day and in the house where it is claimed the seduction took place.

The mother and sister state that the plaintiff's daughter was called by the defendant to that house on that day.

The daughter also states that she was called by the defendant, and went there by directions of her mother. The defendant denies these statements.

No other witnesses on either side testify to that fact. Which do you believe? It is for you to determine. Defendant not only denies calling the girl to his office, but also denies that he had anything to do with her—that he had any sexual intercouse with her then and there or at any other time or place, and in corroboration of his statement seeks to show that Gideon Hughes, John Wynn, John Guy, and perhaps others, were there on that day, and that it was improbable, if not impossible, that he could have accomplished the seduction under such surrounding circumstances. Three creditable witnesses—Mr. Lancaster, Dr. Dougherty, and Mr. Harris—are brought in, and swear before you that Gideon Hughes' reputation in the neighborhood for truth and veracity is bad;
192 that he is unworthy of belief, and that they would not believe him on oath. On that testimony, if you believe it, you have a right to discredit all that Gideon Hughes has stated, except in so far as he is corroborated by the testimony of other witnesses whom you do believe. All the witnesses stand before you as equally credible, except so far as they may have credited themselves by false statements or been discredited by other witnesses or impeached. The plaintiff's daughter says that she was called out to the defendant's office some time before dinner, or after her mother had commenced getting dinner, or while she was making preparations to get dinner. The mother and sister make substantially the same statement.

Gideon Hughes in his testimony, if you remember, says that he was at the defendant's office on the day in question from about

11 o'clock a. m. until 2 o'clock p. *a.* The witness Wynn says that he was there between 10 o'clock a. m. and 1 o'clock p. m. The colored man Guy says that he was at the boarding-house, about 80 feet distant from defendant's office, but don't remember to have been at defendant's office. You must weigh this testimony and give
193 it such consideration as you may think proper, but, gentleman of the jury, you should not be misled by the question as to the exact hour at which the seduction was accomplished, if the act was committed by defendant. Of course, the daughter and her mother and sister testified as to the time of day she went to defendant's office.

You are not required to find that the act was committed at any particular hour; but, assuming the evidence introduced by defendant to cor-oborate his denial to be true, the question is, Was there or was there not an opportunity for defendant to have done the act complained of? Could he have done it before Gideon Hughes got there, about 11 o'clock a. m.? Can you find from the evidence that the act could or might have been accomplished before 11 o'clock, or can you find that Hughes got there at that hour?

Apply your experience to these statements as to the exact hour a witness says he was at a particular place. How far can you rely upon the remembrance of a witness testifying to the exact hour at which he or she was at a particular office or place two or three years since? The thing for you to do, therefore, is to reconcile these conflicts of evidence as to the precise hour of the act under the
194 testimony and the circumstances surrounding the parties. Could the seduction have occurred before Hughes got there? Could it have happened before Wynn got there? Could it have taken place while Guy was at the boarding-house? Does this evidence introduced by defendant to support and cor-oborate his denial, together with the surrounding circumstances, strengthen his denial and render it improbable that the act could have occurred as stated by plaintiff's daughter, or can it be reconciled with her testimony?

It has been earnestly pressed upon you by counsel for the defense that you cannot find for the plaintiff without finding that the defendant committed a rape upon the daughter, for which offense he is now being prosecuted in the State court.

The court instructs you that the rape suit has nothing to do with this case.

This is a suit by the plaintiff to recover $20,000 for the seduction of his daughter. It does not involve any question of rape, and the evidence as detailed before you does not involve the crime of rape at all. Under the evidence in this case, no court could convict the defendant of rape. The daughter, according to her own testi-
195 mony, made no outcry. She made no immediate complaint. She made no such resistance as the law requires, but yielded a hesitating and reluctant consent, on her own statement of the affair. The law would not find the defendant guilty of the crime of rape, a — punishable by death under the laws of Kentucky under such circumstances.

You have nothing to do, however, with the question of rape. The

question which you are to determine is whether the defendant had carnal knowledge of the plaintiff's daughter at the times and places stated by her, and whether as a result of that intercourse a child was born to her. That is the vital question here.

You need not bother yourselves as to whether the daughter consented. She could not consent, so far as the father, whose rights are alone involved in this suit, is concerned.

Now, gentlemen of the jury, you have the main question before you. Witnesses differ as to date. They differ as to the time when the defendant returned to his place after the plaintiff reached there with his family, early in October. Whether the defendant got there
Friday morning or Friday night, Saturday morning or Sat-
196 urday night, is wholly immaterial. These differences may test recollection, but the fact is not material. Nor is it material whether the second act of illicit intercourse took place two or three days or a week after the first, or after the defendant had left the place and came back again, as the daughter stated in the stand.

The material question is, Did he have carnal knowledge of the girl, and was a child born to her on the 10th July, 1885, as the result of that connection? You may take these dates or consider the testimony as to dates and see how far the accuracy of a party's recollection is concerned or affected thereby.

Do not be mislead by them. The thing for you to look to and determine is, Was the defendant guilty of the act charged?

Now, gentlemen of the jury, if you find (and the court has cautioned you to act without allowing any sympathy to bias your judgment, but to weigh the evidence, giving credit to the witnesses you believe have stated the truth) that the defendant was guilty of the act
charged, the seduction of the plaintiff's daughter, then you
197 are next to consider the question of plaintiff's damages. As I have already stated, the plaintiff in such cases was originally awarded damages on the theory of simply compensating him for the loss of his servant's service, together with the expense and labor and care of her confinement.

But, to the credit of our modern jurisprudence, the law has advanced beyond that relic of barbarism, and the father now is entitled not only to compensation for loss of service and expense attendant upon his daughter's confinement in such cases, but for all that he can feel from the nature of the injury. I do not put the case to you as involving vindictive damages, but I do put it to you as strongly as language can express it, that if you find the defendant had sexuel intercourse with the plaintiff's daughter and as a result of that intercourse that a child was born to her July 10th, 1885, the plaintiff is entitled to recover as damages all that you choose to give him for his wounded feelings, up to the limit of the sum claimed in his declaration, which is $20,000.00.

A father, of course, feels a consolation in the virtue of his
198 daughter. All right-thinking parents must understand that feeling. You may give the plaintiff damages in your discretion, up to the limit claimed in his declaration, for the loss of that comfort and consolation which he had a right to feel in the purity

and virtue of his child. You may take into consideration his loss of hope in the future of his daughter and compensate him for the same. You may award him damages, not only for his mental anguish *nor* the disgrace of his daughter, but for his anxiety as to what is to become of her in the future.

You may take into consideration his feelings of anxiety as to the effect of that daughter's example upon his other child. You may look to the loss to him and his family of social standing and position by reason of the daughter's disgrace. You may consider his mortification, humiliation, and sense of dishonor. The world, as we know, visits upon the girl or woman more severe condemnation for such acts than it does upon the man. She and her family are more or less slighted and ostracised. To a considerable extent the hopes and prospects of the family as well as the girl herself are blighted.

199 We need not stop to consider whether it is right or wrong for the world and society to deal more leniently with the man than the woman for such offenses against virtue and chastity. There may or may not be reason, sound reason, for such discrimination. The fact exists and may be taken into consideration by you in estimating the injury which the father has sustained by the seduction of his daughter.

So that in respect to damages it may be sum-ed up in one general sentance or statement, that if you find the defendant committed the wrong complained of you may compensate the plaintiff up to the limit claimed in his declaration for all that he as a father may have felt and suffered for the wrong and injury he has received in the ruin of his daughter.

Your first duty is to determine the question whether the defendant committed the act charged against him. Upon that branch of the case do not allow your sympathy or prejudice to run away with you; but when you shall have found that fact, then this court cheerfully leaves to your determination what compensation you shall

200 give to the injured father, and tells you that in awarding damages for his wounded feelings, his mental sufferings, his anxiety, his humiliation, and his sense of honor, you may go to the very limits of the amount claimed by the plaintiff in his declaration. Now, gentlemen, take the case and consider it.

I do not think of anything else to which your attention should be called.

And the jury, having retired and consulted of their verdict, returned into court and reported their verdict in writing as follows:

"We, the jury, find for the plaintiff and assessed damages in the sum of $15,000.

CHAS. ASMANN, *Foreman.*"

And the court thereupon rendered the following judgment:

"It is therefore now ordered and adjudged that the plaintiff, J. Q. Barbour, have and recover of the defendant, E. O. Stevenson, the

sum of fifteen thousand dollars and his costs herein expended, to be taxed.

201 The defendant then filed grounds and moved the court for a new trial herein, and the same, being considered by the court, were overruled and a new trial refused.

The rulings of the court overruling the motion for a new trial and the objections of the defendant to the charge of the court were severally excepted to by the defendant and he still excepts.

The exceptions to the charge are as follows:

United States Circuit Court, District of Kentucky.

J. Q. BARBOUR, Plaintiff, *against* ED. O. STEVENSON, Defendant. } Exception of the Charge of the Judge to the Jury.

The defendant, Ed. O. Stevenson, *executes* and objects to the following parts and portions of the charge of the judge to the jury, to wit, and to the following language used by the judge, to wit:

1. "The case from its very nature and character touches our sensabilities and affects our sympathies in the very strongest manner; but we must not allow sympathy or prejudice in favor of or against either side to stand in the way of first ascertaining

202 and determining the material facts upon which the rights of these parties depend."

2. "Your sworn duty is to decide this case on the evidence under the law applicable to the questions involved as the court shall charge you and with such comments as to the facts as the court may legitimately make."

3. "It devolves upon the plaintiff to establish to your satisfaction two facts in order that he may recover: First, that the person seduced was his servant; secondly, that that seduction was accomplished as a matter of fact by the defendant."

4. "The law presumes the relation of servant—that is, that the plaintiff had the right to her services, and that — the wrongful act of seducing, whereby loss of her service resulted, he may recover."

5. "The first element of the case to be established by the plaintiff, namely, that the seduced person was his servant, is fully shown by the undisputed evidence introduced, and you may therefore consider that branch of the case as out of the way."

203 6. "The controverted issue in the case turns upon the question whether, as a matter of fact, the defendant was the person who seduced or debauched the plaintiff's daughter and was the father of the child of which she was delivered."

7. "You need not concern or bother yourselves as to how the defendant may have accomplished the act (if he did it), as to the precise hour of the day, or the exact place at which he did it; the question is, Does the proof show to your satisfaction that the defendant was the father of the child the plaintiff's daughter gave birth to?"

"That is the controverted issue and question of fact."

8. "You must be satisfied, gentlemen of the jury, from the whole evidence that the defendant had carnal knowledge of the plaintiff's

daughter, and as a result of that connection a child was born to her."

9. "The seduced person is a competent witness and the plaintiff had the right to call his daughter as a witness. It would
204 have been a subject of grave comment for him not to have called her to give it. You remember her and her statement of the matter."

10. "Does he testify in that frank, candid, straightforward way which a witness should do under the solemnity of a oath or does he evade and equivocate? A witness may state facts reluctantly, yet satisfy you that he or she is telling the truth. In the present case the young girl alleged to have been seduced might hesitate or be reluctant to detail all the particulars connected with or relating to sexual intercourse. She is not to be immodest in order to be worthy of belief."

11. "You should look to the consistency of their testimony. Is the statement of the witnesses consistent with itself? Is he consistent with himself? Is he consistent with undisputed or well-established facts, about which you have no doubt?"

12. * * * "You may apply your experience in weighing and considering the statements made by witnesses and in determining which side conflicting and contradicting evidence best har-
205 monizes with such experience and the probability of truth; and, having thus satisfied yourself, your duty will be to decide accordingly."

13. "Do not lose sight of the real issue, which is, Was the defendant father of the child which the plaintiff's daughter gave birth to on the 10th day of July, 1885?"

14. "As I have already stated, the plaintiff had the right to put his daughter on the witness stand to state the transaction as she alleges it occurred. She has done this. You have not only heard her evidence, but have seen her manner of testifying, and it is for you now to test and determine the truth of her statement."

15. "The defendant has also been put upon the stand and contradicts every material statement made by her."

16. "You have seen his manner and bearing. Both testify under the solemnity of an oath, and one or the other has sworn falsely. It is for you to determine which has told the truth."

206 17. "In the issue that is presented here the general character of the plaintiff's daughter for chastity is involved. The defendant had the right to attack her general character for chastity, and to have broken in that way any probability that defendant was the father of her child, eaven if he had had intercourse with her. The defendant did not do so—that is, no attack has been made upon her general character for chastity—and the court instructs you that you should allow no suspicion to cross your mind that she had previous intercourse with any other man who was the father of her child."

18. "What I mean is, that there is no evidence attacking her general character for chastity, and you cannot infer that she was an

improper or unchaste woman or girl previous to the time she was begotten with child."

19. "You cannot infer that the child of which she was delivered was the child of the man Sheehee, who has been referred to during the progress of this trial. So let that go. You have no evi-
207 dence in the case to lead you off on such a trail as that."

20. "The girl did have a child on the 10th of July, 1885. In the ordinary period of gestation, that child was begotten on or about the 10th or 13th or middle of October, 1884. The child was begotten about the time stated by the plaintiff's daughter. It does not appear that the child was born prematurely, nor is it shown to have been different from the ordinary period of birth."

21. "It is a fact that the girl was on the premises the day of the alleged seduction. It is a fact unquestioned that the defendant was on the premises that day and in the house where it is claimed the seduction took place. The mother and sister state that the plaintiff's daughter was called by the defendant to that house on that day. The daughter also states that she was called by the defendant and went there by the direction of her mother. The defendant denies the statement. No other witnesses on either side testifying to that fact, which do you believe?"

22. "The defendant not only denies calling the girl to his
208 office, but also denies that he had anything to do with her; that he had any sexual intercourse then and there or at any other time or place."

23. "Three credible witnesses—Mr. Lancaster, Dr. Daugherty, and Mr. Harris—are brought in and swear before you that Gideon Hughes' reputation in the neighborhood for truth and veracity is bad; that he is unworthy of belief; that they would not believe him on oath."

24. "The plaintiff's daughter says that she was called over to the defendant's office some time before dinner or after her mother had commenced getting dinner or while she was making preparation to get dinner."

25. "Gentlemen of the jury, you should not be mislead by the question as to the exact hour at which the seduction was accomplished, if the act was committed by the defendant. Of course, the daughter, her mother, and sister have testified as to the time of day she went to the defendant's office. You are not required to find that the act was committed at any particular hour; but, assuming the
209 evidence introduced by the defendant to corroborate his denial to be true, the question is, Was there or not an opportunity for the defendant to have done the act complained of? Could he not have done it before Gideon Hughes got there, assuming that Gideon Hughes got there about 11 o'clock a. m.? Can you find from the evidence that the act could or might have been accomplished before 11 o'clock or can you find that Hughes got there at that hour?"

26. "Apply your experience to these statements as to the exact hour a witness says he was at a particular place. How far can you rely upon the remembrance of a witness testifying to the exact hour at

which he or she was at a particular place two or three years since?"

27. "The thing for you to do, therefore, is to reconcile this conflict of evidence as to fixing the hour of the act under the testimony and circumstances surrounding the parties. Could the seduction have occurred before Hughes got there? Could it have been done before Wynn got there? Could it have taken
210 place while Guy was at the boarding-house? Does this evidence introduced by the defendant support and corroborate his denial and render it improbable that the act could have occurred as stated by the plaintiff's daughter, or can it be reconciled with her testimony?"

28. "The question which you are to determine is whether the defendant had carnal knowledge of the plaintiff's daughter at the times and places stated by her, and whether, as a result of that intercourse, a child was born to her. That is the vital question."

29. "You need not bother yourself as to whether the daughter consented. She could not consent so far as the father, whose rights alone are involved in this suit, is concerned."

30. "Witnesses differ as to dates. * * * These differences may test recollection, but the fact is not material, nor is it material whether the second act of illicit intercourse took place two or three days or a week after the first.

31. "After the defendant had left the place and came back
211 again as the daughter stated on the stand."

32. "The material question is, Did he have carnal knowledge of the girl, and was a child born to her on the 10th day of July, 1885, as a result of that connection."

33. "I do put it to you as strongly as language can express it, that if you find the defendant had sexual intercourse with the plaintiff's daughter and as a result of that intercourse that a child was born to her July 10, 1885, the plaintiff is entitled to recover as damages all that you choose to give him for his wounded feelings up to the limit of the sum claimed in his declaration, which is twenty thousand dollars."

34. "We need not stay to consider whether it is right or wrong for the world and society to deal more leniently with the man than the woman for such offenses against virtue and chastity. There may or may not — reasons, sound reasons, for such discrimination. The fact exists, and may be taken into consideration by you in estimating the injury sustained by the seduction of this daughter. So
212 that in respect to damages it may be sum-ed up in one general sentence or statement, that if you find the defendant committed the wrongful act complained of you may compensate the the plaintiff up to the limit claimed in his declaration."

35. "This court cheerfully leaves to your determination what compensation you shall give to the injured father, and tells you that in awarding damages for his wounded feelings, his mental suffering, his anxiety, his humiliation, and his sense of dishonor you may go to the very limits of the amount claimed by the plaintiff in his declaration."

And the said defendant prays that for the many errors, as above set forth, contained in the charges of the court to the jury, whereby the jury was misled to the prejudice of the said defendant, the verdict of the jury may be set aside and a new trial granted herein.

O'HARA & BRYAN,
For the Defendant.

The defendant offered this his bill of evidence and exceptions and prays that the same be signed and sealed and made part of the record, which is now done.

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June 20, 1887.

HOWELL E. JACKSON,
Circuit Judge.

And on a day following, to wit, on the 27th day of September, A. D. 1887, a bond for costs was filed herein; which said bond is in words and figures as follows, viz:

Supreme Court of the United States.

J. Q. BARBOUR
vs.
E. O. STEVENSON. } In Error.

Know all men by these presents that we, Mrs. E. J. Stevenson and J. O'Hara, are held and firmly bound unto the above-named J. Q. Barbour in the sum of five hundred ($500.00) dollars, to be paid to the said J. Q. Barbour, his executors or administrators; to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals and dated at Covington, Ky., this sixth day of September, A. D. 1887.

Whereas the above-named E. O. Stevenson hath prosecuted a writ of error to the Supreme Court of the United States to reverse the judgment rendered in the above-entitled suit by the circuit court of the United States for the district of Kentucky, at Covington:

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Now, therefore, the condition of this obligation is such that if the above-named E. O. Stevenson shall prosecute said writ of error to effect and answer all costs if he shall fail to make good his plea, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

E. J. STEVENSON. [L. S.]
J. O'HARA. [L. S.]

Sealed and delivered in presence of—
CHAS. Y. GRAY,
Deputy Clerk U. S. Circuit Court,
Dist. of Ky., at Covington.

Approved:
JNO. W. BARR, *Judge.*

UNITED STATES OF AMERICA, *District of Kentucky*, } ss:

I, Joseph C. Finnell, clerk of the United States circuit court for the sixth circuit, district of Kentucky, do hereby certify that the foregoing two hundred and fourteen pages contain a true and correct transcript of the record and proceedings in the case wherein J. Q. Barbour is plaintiff and E. O. Stevenson is defendant, as appears from the files and records of my office.

Seal 6th Circuit Court, Ky. Dis., U. S. of America.

In testimony whereof I have hereunto subscribed my name and affixed the seal of said court, at Covington, this 27th day of Sept., A. D. 1887.

JOS. C. FINNELL,
Clerk U. S. Cir. Court, Ky. Dist.

Endorsed on cover: Kentucky C. C. U. S. No. 304. E. O. Stevenson, plaintiff in error, *vs.* J. Q. Barbour. Filed November 25, 1887.

Office Supreme Court, U. S.
FILED,
MAR 16 1891
JAMES H. McKENNEY,
CLERK.

United States Supreme Court.

E. O. STEVENSON, Plaintiff in Error.

vs.

J. Q. BARBOUR, Defendant in Error.

OHARA & BRYAN, of Counsel.

United States Supreme Court.

E. O. STEVENSON, *Plaintiff in Error*

vs.

J. Q. BARBOUR, *Defendant in Error.*

This is a writ of error prosecuted to the judgment of the Circuit Court of the Sixth Circuit, District of Kentucky, rendered at the May term, on the 17th day of May, 1887, of said Court, in an action for the seduction of the plaintiff's daughter, wherein the said defendant in error was plaintiff and the said plaintiff in error was defendant, for the sum of Fifteen Thousand Dollars damages.

The sole question involved in this writ of error is whether or not the trial Judge erred in his charge to the jury?

This Court in the case of *Stimpson vs. Winchester R. R. Co.*, 3 *Howard*, 553, held that when the exceptions of the plaintiff in error to the charge of the Court to the jury are specific and clearly pointed out; and the bill of exceptions allowed and certified by the Judge, the errors

complained of are properly brought before this Court for its consideration.

In *Beckwith and Gillam vs. Bean*, 98 *U. S.*, 306, it is said that such exception to the charge given the jury by the trial Judge as will point the Court to the particular matter excepted to, will call for a review by this Court.

In the case at bar the exceptions to the charge of the Judge are numerous and specific, in each case pointing out the exact language used by the Judge to which exception is taken, and which it is believed were calculated to, and, did in fact prejudice, the defendant in the minds of the jurors in their consideration of the case.

The very opening words of the charge, were of a character to inflame the minds of the jurors, and set them against the defendant, and to mislead them in their subsequent consideration of the facts detailed to them by the witnesses; producing an abnormal state of mind in them, imbued with the same spirit that manifestly possessed the Judge, which led him to remind the jury that his and their "sensibilities and sympathies were touched in the very "strongest manner by the very nature and character of "the case."

These words from the lips of the Judge on the bench falling upon the ears of the jury were deadly poison to the defendant's side of the case, notwithstanding the effort of the Judge to molify its effect by, admonishing the jury "not to, allow their sympathies or prejudice for or against

"either side to stand in the way of first ascertaining the "material facts upon which, the rights of the parties de- "pend."

The Judge evidently felt that he had transcended the bounds of judicial fairness in communicating to the jury, his own sensibilities and sympathies already aroused against the defendant, in a manner that it was impossible that, it would not have a prejudicial effect against the defendant's side of the case.

The attention of the Court is called to the seventh, twenty-first, twenty-second, twenty-fourth, twenty fifth, twenty-sixth, twenty-eighth and thirtieth exceptions, all of which relate to the effect that the jury should give to evidence of the time when and place where, the principal act was committed.

The charge given by the Judge on that subject, seems to be calculated to lead the minds of the jurors away from, the proper consideration of the evidence on that point; and to limit its consideration alone to the effect it might have, upon the minds of the jurors as to whether the act did occur, at the time stated by the unfortunate young woman; they being told in that connection, that the time was a matter of no consequence, and *a fortiori* the evidence also of no consequence.

Under that view of the subject thus impressed upon the minds of the jurors, they were justified in discarding the testimony on that subject entirely from their considera-

tion, and in giving no effect to it whatever, when considered in reference to the truthfulness of the principal witness of the plaintiff in the action.

The testimony as to the time when and the place where the act complained of was done is made important by the testimony of the plaintiff's witness fixing the place in the room or office of the defendant in the action, and proving the repetition of the act in the same place on a different day; and the jury should have been left entirely free to have considered all the testimony in the case upon that point in determining whether the plaintiff's witness had told the truth, not only as to time and place, but as to every other fact constituting the *gravamen* of the offense against the plaintiff's right complained of. The legal maxim *falsus in uno falsus in omnibus* might well be applied, if the jury had found from an unbiased consideration of the entire testimony, that the witness was false in her testimony as to the time or place of the perpetration of the wrong complained of, by whomsoever it may have been committed, they might have discarded her whole testimony.

In this same connection, we ask the Court to consider the fourteenth, fifteenth, sixteenth, seventeenth, eighteenth and nineteenth exceptions to the Judge's charge, in which the principal witness for the plaintiff in the action, and the defendant himself, as a witness are contrasted, and the attention of the jury called to the plaintiff's witness, as

stated in the fourteenth exception; and the jury substantially told, that from the manner of the witness in delivering her testimony, they should find it was true—and furthermore, in consequence of the failure of the plaintiff in error to attack the general character for chastity of the female witness, they could not fail to find that her charge against the plaintiff in error is true.

The nineteenth exception, questions the action of the Judge in withdrawing entirely, whatever evidence the jury might have discovered in the testimony conducing to show that "*the man Sheehee,*" was the guilty person in this unfortunate transaction. There was testimony before the jury in regard to the association between Sheehee and the daughter of the plaintiff in the action, from which the jury in the exercise of their special province, to weigh the testimony and find the facts, might have found that Sheehee was the guilty party instead of the plaintiff in error; had not the Court in such peremptory words withdrawn the evidence, and told the jury "you have no evidence in the "case to lead you off on such a trail as that."

That the jury was influenced by the charge of the Court in the points to which we have excepted can not be doubted. We think, when the three last exceptions are considered, which by their tone and temper so manifestly show that the Judge himself was deeply imbued with that sympathy with the plaintiff's cause, very creditable to his heart as a man, but in our estimation altogether

too emotional for a Judge on the bench, who should possess that stolid indifference as to how his action may affect the parties so it reflects the law of the case, though he vainly endeavored to impress upon the jury an admonition contrary to the unmistakable effect, of what he himself heard upon his own sensibilities.

We respectfully ask a reversal of the judgment that plaintiff in error may have a new and a fair trial.

Attorney for Plaintiff in Error.

O'HARA & BRYAN, *of Counsel.*

AUTHORITIES CITED.

Stimpson vs. Winchester R. R. Co., 3 *Howard*, 553.

Beckwith & Gillam vs. Bean, 98 *U. S*, 306.

Office Supreme Court U. S.
FILED.
APR 1 1891
JAMES H. MCKENNEY
CLERK

IN THE

Supreme Court of the United States

October Term, 1890.

—o—

E. O. STEVENSON,

PLAINTIFF IN ERROR,

vs.

J. Q. BARBOUR,

DEFENDANT IN ERROR.

No. 304.

—o—

Error to the Circuit Court of the United States for the District of Kentucky.

—o—

BRIEF OF

ORRIN B. HALLAM,

Attorney for Defendant in Error.

IN THE

Supreme Court of the United States

October Term, 1890.

E. O. STEVENSON, Plaintiff in Error,
vs.
J. Q. BARBOUR, Defendant in Error. } No. 304.

Error to the Circuit Court of the United States for the District of Kentucky.

BRIEF FOR DEFENDANT IN ERROR.

Before proceeding to an argument, it is respectfully submitted that the plaintiff in error is in default, under the 21st rule of this court, in that he does not, either in his brief, or otherwise, make any assignment or specification of errors. His complaint is so general as that, in military parlance, it would be termed a charge, rather than a specification; certainly there is no approach to compliance with this clause of the rule: "When the error alleged is to the charge of the court, the specification shall set out the part referred to *totidem verbis*, whether it be instructions given or instructions refused." There can be no doubt that this specification is a dis-

tinct matter from the exception to the charge referred to in rule 4, and that it was intended to require the party appealing to state anew and specially in this court "the errors relied on."

It is also submitted that the plaintiff in error did not, in the court below take the steps or comply with the conditions necessary to bring before an appellate court, the errors in the charge on which he now seeks to rely. Under Section 914 of the Revised Statutes the practice and proceedings of this common law action should have conformed, as near as might be, to the practice and proceedings in like causes in the Kentucky state courts.

In that state it is provided in the Civil Code, Section 333, that; "An exception is an objection taken to a decision of the court upon a matter of law," and Section 334 requires that: "The party objecting must except when the decision is made," and in Kennedy *vs.* Cunningham, 2 Met. (Ky.), 538, it was held that exception must be taken when the decision is rendered, notwithstanding a rule of court to the contrary. The record wholly fails to show that any exception was taken to the charge at the time it was given; on the contrary it negatives that idea. On page 86 of the printed transcript it is shown that, after the argument of counsel to the jury, "The court charged the jury as follows": * * * and at the conclusion of the charge, (page 93), without the noting of any exception thereto, it is shown that the jury retired, consulted, and reported a verdict. This, as appears on page 7, was on May 17, and on the following day a motion for a new trial was filed and overruled.

Precisely when the exception to the judge's charge to the jury was first made or filed does not appear; the first reference to it is in page 94. "The rulings of the court overruling the motion for a new trial and the objection of the defendant to the charge of the court were sever-

ally excepted to by the defendant and he still excepts" Then follow the exceptions to the charge, beginning: "The defendant, Ed. O. Stevenson, *executes* (excepts) and objects to the following parts and portions of the charge of the judge to the jury, to wit:" and concluding, "And the said defendant prays that for the many errors as above set forth, contained in the charge of the court to the jury, whereby the jury was misled to the prejudice of the said defendant, the verdict of the jury may be set aside and a new trial granted herein." This shows indisputably that this paper was not filed until after verdict; and there is nothing either in it that shows it was intended to relate back to exceptions taken at the time the charge was given, or elsewhere in the record that shows any exception *was* taken before verdict.

The force of this objection to the plaintiff in error's standing in court is sought to be broken, by indirection, by the citation in his counsel's brief of two cases decided by this court many years ago. An examination of these two opinions, however, shows that neither of them establishes the proposition that specific exceptions taken either at the time of or after its delivery authorize a review of the lower court's charge; except, indeed, inferentially, by deciding that where the record does not show a specific objection, the charge is *not* before the court for review. Moreover, one of these cases came from Pennsylvania and the other from Vermont, where a totally different practice from that of Kentucky was likely in force.

Then, again, in Stimpson *vs.* Westchester R. R. Co., (3 Howard), cited, erroneously but *idem sonans*, by plaintiff in error as Winchester R. R. Co., it was, in so many words, held that; "This court has not the power to correct any errors or omissions which may have been made in the circuit court in framing the exception nor

can we regard any part of the charge as the subject matter of revision here, unless the judges or one of them certify under his seal that it was expected to *at the trial.*" This is only in accord with the general proposition, the soundness of which is not questioned, that a party will not be permitted to sit by without objection and allow steps to be taken and rulings to be made during a trial, take his chances on a verdict, and, after an adverse one, at his leisure pick out errors in the proceedings. His time to speak having passed there is nothing left him but a time to be silent and a time to mourn.

Then again under the Kentucky practice, "On an issue and trial of fact by a jury a motion for a new trial is essential to correct errors growing out of the evidence or instructions before an appeal can be entertained."

Humphreys *vs.* Walton, (2 Bush. 580).
Detherage *vs.* Montgomery, (4 Id. 46).

This I conceive to be not merely a rule of practice of the Kentucky court of appeals, but a construction of the Kentucky code of practice, binding on all courts, which establishes the fact that, to avail one's self of errors occuring during a jury trial, he must not only except at the time, but afterwards give the court an opportunity to correct its errors, by specifically calling attention to them in a written motion for a new trial. If the party complaining fails in either of these particulars he is estopped. "The court of appeals will not notice an alleged error which the appellant had failed to specify in his grounds for a new trial although the record showed he had excepted thereto during the trial."

Hopkins *vs.* Com'th, (3 Bush. 480).
Slater *vs.* Sherman, (5 Bush. 211).
L. C. & L. R. R. *vs.* Mahony, (7 Bush. 238).

By Section 340 of the Kentucky Civil Code a new

trial is authorized for any of several causes affecting materially the substantial rights of the party aggrieved The only material one in this case is; "Error of law occuring at the trial and excepted to by the party making the application;" under this head the plaintiff in error complains in his motion for new trial, (page 8). "6. The court improperly charged the jury as to the effect to be given by them *in* (to) testimony in this case. 7. The court improperly charged the jury as to inferences to be drawn by them from the testimony and presumptions from omissions to offer testimony." While I do not propose to go into a general discussion of the evidence, and do not feel that plaintiff in error is in position to require it, I feel constrained to say that I can not observe that the court anywhere, in any of the portions of the charge excepted to, instructed the jury as to inferences to be drawn from testimony; nor in more than one instance as to presumptions from omissions to offer testimony; and that was to the effect that a female was presumed to be chaste, in the absence of evidence showing the contrary. I apprehend that it will be difficult to overthrow this proposition in the courts of any civilized country.

So there remains only for discussion or consideration the sixth ground, wherein it is alleged that the court improperly charged the jury as to the effect to be given to testimony.

In *Beckwith* vs. *Bean*, 98 U. S., (cited by plaintiff in error) it was held that an exception to a charge as to a mass of testimony described by a conglomerate title could not be considered. "The exception is scarcely more definite than a general exception to the whole charge would have been. The exception was to a series of propositions in gross, etc. Some of those propositions seem to be sound in any view of the case, but since the exception did not call the attention of the

court below to the specific propositions which were objected to, it cannot be regarded here." As we have seen, under the Kentucky code, the exception must be renewed in the motion for a new trial. It should be as specific there as in the original objection. The paper purporting to be an exception to the charge, is in the nature of a supplemental motion for a new trial, but, as we have also seen, does not ever appear to have been filed of record, or presented to the court until June 3, when the motion for new trial had been long since overruled, and the bill of exceptions was presented. So that the plaintiff in error is remitted to the *very* general objection stated in his motion for new trial, which under Beckwith *vs.* Bean, is not sufficient, I may add, that if the exception to the charge is to be considered as properly part of the record, it is in itself insufficient. It contains 35 items and may be said to embrace practically the whole charge, stated in successive sentences as to all its material parts. Sixty per cent. of these have been since abandoned and only 14 sentences are, in plaintiff in error's brief, claimed to be worthy of condemnation.

This court should characterize this as no better than a general exception to the whole charge. If a party is to be permitted to take up and rewrite a charge, sentence by sentence, stating an exception to each, when it is apparent that many, if not most, of the exceptions are not taken in good faith, it is reducing compliance with a legal requirement merely to a matter of manual labor with the pen. It is another form of saying grace over the whole barrel of meat at once. The abandonment of 21 of the exceptions shows or at least indicates that *they* were not taken in good faith. Of the outstanding 14 I may select at random three, those numbered in the original series 14, 15 and 16, where the court does no more than tell the jury, that the defendant in error had a right to put his daughter on the stand and that the

plaintiff in error had a right to testify; that the jury had heard both witnesses and it was for the jury to determine which had sworn falsely. It will be difficult to persuade this court that a *bona fide* objection is made to this portion of the charge. As the writ of error is presented by his counsel, the plaintiff in error seems rather to expect the court to inspect the lower court's charge and see if *it* cannot find an error in it somewhere. That the court can or will do this is hardly to be expected.

A third complaint urged, here but not made ground for new trial below, is that the circuit judge indicated bias; the only specification hinted at is a remark really to the protection and benefit of the plaintiff in error himself, wherein the judge recites the fact that, not this case, but any case of this nature and character appeals most strongly to the feelings and sensibilities, but cautions the jury that they are not to allow this to influence them in their deliberations. This court will hardly concur in the general proposition, made by plaintiff in error's counsel, that a judge must divest himself of his human nature and assume a condition of "stolid (*i. e.* hopelessly insensible or stupid) indifference."

As to the lower court's direction that there was no evidence to indicate that "the man Sheehee was the guilty person," the plaintiff in error fails to point out any evidence implicating in tending to implicate him. The true test is to ascertain whether if the action had been against Sheehee, instead of Stevenson, there was evidence enough to go to the jury: a nonsuit surely would have been ordered on the testimony in this record, therefore it was the duty, or at least the privilege, of the court to take from the jury the possibility of a collateral finding, which there was no evidence conducing to prove.

Without becoming emotional, or, as Mr. Alfred Lammle puts it, sentimental, I feel that I can properly say that no case before me ever presented a just erverdict or flimsier objection. To rob of her virtue a tender, delicate girl of scarce 14 years of age, educated and refined, albeit of humble extraction and association, is an offense in some parts punishable with death, and who can say undeservedly so? The offender in this case should congratulate himself that he escapes with a $15,000 judgment, e'en though it should take all he hath to satisfy it.

A dismissal or affirmance is confidently expected.

ORRIN B. HALLAM,
Attorney for Defendant in Error.